

The Transfrontier Shipment of Waste (Bailiwick of Guernsey) (Amendment) Ordinance, 2023

THE STATES POLICY & RESOURCES COMMITTEE, in exercise of the powers conferred on the States by sections 1 and 3 of the European Union (Amendment of Legislation) (Bailiwick of Guernsey) Law, 2018^a, and all other powers enabling them in that behalf, and in exercise of the powers conferred on the Committee by Article 66A(1) of the Reform (Guernsey) Law, 1948^b, hereby order:-

Amendment of the Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018.

1. (1) The Transfrontier Shipment of Waste (Guernsey) Ordinance, 2018^c is amended as follows.

(2) In section 1 (modified EU Regulation to have effect in Guernsey), for ("**modified EU Regulation**") substitute "and any further adaptations, exceptions and modifications or any amendments made, from time to time, under this Ordinance".

(3) After section 23 (form and method of service of documents) insert -

"Power to amend this Ordinance or the modified EU Regulation etc. by Regulations.

^a Order in Council No. V of 2019.

^b Ordres en Conseil Vol XIII, p. 288. This enactment has been amended.

^c Ordinance No. XXIX of 2018.

23A. (1) For any of the purposes set out in subsection (4), the Committee for the Environment & Infrastructure may by Regulations –

- (a) amend this Ordinance including, without limitation, amending any adaptations, exceptions and modifications made to the EU Regulation under section 1,
- (b) make further adaptations, exceptions or modifications to the modified EU Regulation,
- (c) amend the modified EU Regulation, or
- (d) amend this Ordinance to extend to Guernsey all or any provisions of any EU instrument wholly or partly replacing the EU Regulation or any other EU instrument referred to in this Ordinance, subject to any adaptations, exceptions or modifications.

(2) The power in subsection (1) includes, without limitation, a power to make provision as to the creation and punishment of offences in respect of contraventions of this Ordinance or the modified EU Regulation and as to the creation of new or the amendment of existing duties, obligations, liabilities, remedies, penalties, sanctions and other consequences for any of the purposes set out in subsection (4) (but subject to the provisions of subsection (3)).

(3) The power conferred by subsections (1) and (2) does not include power -

- (a) to provide for offences to be triable only on indictment,
 - (b) to authorise the imposition, on summary conviction, of a term of imprisonment or a fine exceeding the limits of jurisdiction for the time being imposed on the Magistrates Court by section 9 of the Magistrates Court (Guernsey) Law, 2008, or
 - (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.
- (4) The purposes referred to in subsections (1) and (2) are -
- (a) to implement any obligations extended, or to be extended to Guernsey, or otherwise applying, or to be applied, in Guernsey, under the Basel Convention, the OECD Decision or any other international agreement relating to transfrontier shipment of waste, the United Kingdom's ratification of which (where relevant) has been extended, or is to be extended, to Guernsey, as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied,
 - (b) to make equivalent provision, in Guernsey

legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in the European Union, relating to transfrontier shipment of waste, subject to any modifications, adaptations or exceptions which the Committee for the Environment & Infrastructure considers necessary or expedient to adapt the provisions to Guernsey, or

- (c) to make equivalent provision, in Guernsey legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in any part of the United Kingdom, in retained EU law or any other enactment relating to transfrontier shipment of waste subject to any modifications, adaptations or exceptions which the Committee for the Environment & Infrastructure considers necessary or expedient to adapt the provisions to Guernsey.

(5) Regulations of the Committee for the Environment & Infrastructure under this section shall be laid before a meeting of the States of Deliberation as soon as possible after being made; and if at that or the next meeting the States of Deliberation resolve that the Regulations be annulled, the Regulations shall cease to have effect but without prejudice to anything done under them or to the making of new Regulations.

(6) In this section, "**retained EU law**" has the meaning in

section 6(7) of the European Union (Withdrawal) Act 2018."

(4) In section 24(1) (interpretation), in the definition of "**the modified EU Regulation**", for "as modified by section 1" substitute "subject to the adaptations, exceptions, modifications and amendments made, from time to time, under this Ordinance".

(5) In section 24(2) (interpretation), delete "or Community provision (within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994)".

(6) After section 24(2), insert –

"(3) Any reference in this Ordinance to an EU instrument is, unless the context requires otherwise, a reference thereto as from time to time amended in the European Union.

(4) In the event of the repeal of an EU instrument referred to in this Ordinance by a further EU instrument, any reference to that repealed instrument in this Ordinance shall be to that instrument as it had effect in the European Union immediately before the date of the repeal.

(5) For the avoidance of doubt –

(a) subsections (3) and (4), are subject to any provision made under sections 1 and 23A, and

(b) subsection (4) applies notwithstanding any continued application of any provision of the repealed EU instrument in any saving

provision (however worded).".

Amendment of the Transfrontier Shipment of Waste (Alderney) Ordinance, 2018.

2. (1) The Transfrontier Shipment of Waste (Alderney) Ordinance, 2018^d is amended as follows.

(2) In section 1 (modified EU Regulation to have effect in Alderney), for ("**modified EU Regulation**") substitute "and any further adaptations, exceptions and modifications or any amendments made, from time to time, under this Ordinance".

(3) After section 23 (form and method of service of documents) insert –

"Power to amend this Ordinance or the modified EU Regulation etc. by Regulations.

23A. (1) For any of the purposes set out in subsection (4), the Committee may by Regulations -

(a) amend this Ordinance including, without limitation, amending any adaptations, exceptions and modifications made to the EU Regulation under section 1,

(b) make further adaptations, exceptions or modifications to the modified EU Regulation,

^d Alderney Ordinance No. XIV of 2018.

- (c) amend the modified EU Regulation, or
- (d) amend this Ordinance to extend to Alderney all or any provisions of any EU instrument wholly or partly replacing the EU Regulation or any other EU instrument referred to in this Ordinance, subject to any adaptations, exceptions or modifications.

(2) The power in subsection (1) includes, without limitation, a power to make provision as to the creation and punishment of offences in respect of contraventions of this Ordinance or the modified EU Regulation and as to the creation of new or the amendment of existing duties, obligations, liabilities, remedies, penalties, sanctions and other consequences for any of the purposes set out in subsection (4) (but subject to the provisions of subsection (3)).

(3) The power conferred by subsections (1) and (2) does not include power -

- (a) to provide for offences to be triable only on indictment,
- (b) to specify a penalty in respect of an offence triable summarily or on indictment which exceeds -
 - (i) the maximum penalty specified under an Ordinance of the States of Deliberation in respect of that offence

when tried summarily or, as the case may be, on indictment, or

- (ii) the limits of jurisdiction for the time being imposed upon the Court of Alderney by section 13 of the Government of Alderney Law, 2004,

whichever is greater, or

- (c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

(4) The purposes referred to in subsections (1) and (2) are -

- (a) to implement any obligations extended, or to be extended to Alderney, or otherwise applying, or to be applied, in Alderney under the Basel Convention, the OECD Decision or any other international agreement relating to transfrontier shipment of waste, the United Kingdom's ratification of which (where relevant) has been extended, or is to be extended, to Alderney, as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied,
- (b) to make equivalent provision, in Alderney

legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in the European Union, relating to transfrontier shipment of waste, subject to any modifications, adaptations or exceptions which the Committee considers necessary or expedient to adapt the provisions to Alderney, or

- (c) to make equivalent provision, in Alderney legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in any part of the United Kingdom, in retained EU law or any other enactment relating to transfrontier shipment of waste subject to any modifications, adaptations or exceptions which the Committee considers necessary or expedient to adapt the provisions to Alderney.

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

(6) In this section, "**retained EU law**" has the meaning in section 6(7) of the European Union (Withdrawal) Act 2018."

(4) In section 24(1) (interpretation), in the definition of "**the modified EU Regulation**", for "as modified by section 1" substitute "subject to the adaptations, exceptions, modifications and amendments made, from time to time, under this Ordinance".

(5) In section 24(2) (interpretation), delete "or Community provision (within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994)".

(6) After section 24(2), insert –

"(3) Any reference in this Ordinance to an EU instrument is, unless the context requires otherwise, a reference thereto as from time to time amended in the European Union.

(4) In the event of the repeal of an EU instrument referred to in this Ordinance by a further EU instrument, any reference to that repealed instrument in this Ordinance shall be to that instrument as it had effect in the European Union immediately before the date of the repeal.

(5) For the avoidance of doubt -

(a) subsections (3) and (4), are subject to any provision made under sections 1 and 23A, and

(b) subsection (4) applies notwithstanding any continued application of any provision of the repealed EU instrument in any saving provision (however worded).".

Amendment of the Transfrontier Shipment of Waste (Sark) Ordinance, 2019.

3. (1) The Transfrontier Shipment of Waste (Sark) Ordinance, 2019^e is amended as follows.

(2) In section 1 (modified EU Regulation to have effect in Sark), for ("**modified EU Regulation**") substitute "and any further adaptations, exceptions and modifications or any amendments made, from time to time, under this Ordinance".

(3) After section 23 (form and method of service of documents) insert -

"Power to amend this Ordinance or the modified EU Regulation etc. by Regulations.

23A. (1) For any of the purposes set out in subsection (4), the Sark Douzaine may by Regulations -

- (a) amend this Ordinance including, without limitation, amending any adaptations, exceptions and modifications made to the EU Regulation under section 1,
- (b) make further adaptations, exceptions or modifications to the modified EU Regulation,
- (c) amend the modified EU Regulation, or
- (d) amend this Ordinance to extend to Sark all or any provisions of any EU instrument wholly or

^e Sark Ordinance No. II of 2019.

partly replacing the EU Regulation or any other EU instrument referred to in this Ordinance, subject to any adaptations, exceptions or modifications.

(2) The power in subsection (1) includes, without limitation, a power to make provision as to the creation and punishment of offences in respect of contraventions of this Ordinance or the modified EU Regulation and as to the creation of new or the amendment of existing duties, obligations, liabilities, remedies, penalties, sanctions and other consequences for any of the purposes set out in subsection (4) (but subject to the provisions of subsection (3)).

(3) The power conferred by subsections (1) and (2) does not include power -

(a) to provide for offences to be triable only on indictment,

(b) to specify a penalty in respect of an offence triable summarily or on indictment which exceeds -

(i) the maximum penalty specified under an Ordinance of the States of Deliberation in respect of that offence when tried summarily or, as the case may be, on indictment, or

(ii) the limits of jurisdiction for the time

being imposed upon the Court of the Seneschal by section 11 of the Reform (Sark) Law, 2008,

whichever is greater, or

(c) to authorise the imposition, on conviction on indictment of any offence, of a term of imprisonment exceeding two years.

(4) The purposes referred to in subsections (1) and (2) are -

(a) to implement any obligations extended, or to be extended to Sark, or otherwise applying, or to be applied, in Sark under the Basel Convention, the OECD Decision or any other international agreement relating to transfrontier shipment of waste, the United Kingdom's ratification of which (where relevant) has been extended, or is to be extended, to Sark, as from time to time amended, replaced or re-enacted (in either case, with or without modification), extended or applied,

(b) to make equivalent provision, in Sark legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in the European Union, relating to transfrontier shipment of waste, subject to any modifications, adaptations or exceptions which

the Sark Douzaine considers necessary or expedient to adapt the provisions to Sark, or

- (c) to make equivalent provision, in Sark legislation relating to transfrontier shipment of waste, to that in force, or known to be coming into force, in any part of the United Kingdom, in retained EU law or any other enactment relating to transfrontier shipment of waste subject to any modifications, adaptations or exceptions which the Sark Douzaine considers necessary or expedient to adapt the provisions to Sark.

(5) Regulations of the Sark Douzaine under this section shall be laid before a meeting of the Chief Pleas as soon as possible after being made; and if at that or the next meeting the Chief Pleas resolve that the Regulations be annulled, the Regulations shall cease to have effect but without prejudice to anything done under them or to the making of new Regulations.

(6) In this section, "**retained EU law**" has the meaning in section 6(7) of the European Union (Withdrawal) Act 2018."

(4) In section 24(1) (interpretation), in the definition of "**the modified EU Regulation**", for "as modified by section 1" substitute "subject to the adaptations, exceptions, modifications and amendments made, from time to time, under this Ordinance".

(5) In section 24(2) (interpretation), delete "or Community provision (within the meaning of section 3(1) of the European Communities

(Implementation) (Bailiwick of Guernsey) Law, 1994)".

(6) After section 24(2), insert -

"(3) Any reference in this Ordinance to an EU instrument is, unless the context requires otherwise, a reference thereto as from time to time amended in the European Union.

(4) In the event of the repeal of an EU instrument referred to in this Ordinance by a further EU instrument, any reference to that repealed instrument in this Ordinance shall be to that instrument as it had effect in the European Union immediately before the date of the repeal.

(5) For the avoidance of doubt -

(a) subsections (3) and (4), are subject to any provision made under sections 1 and 23A, and

(b) subsection (4) applies notwithstanding any continued application of any provision of the repealed EU instrument in any saving provision (however worded)."

Citation.

4. This Ordinance may be cited as the Transfrontier Shipment of Waste (Bailiwick of Guernsey) (Amendment) Ordinance, 2023.

Commencement.

5. This Ordinance shall come into force on the 5th December, 2023.