

*Consolidated text*

# PROJET DE LOI

ENTITLED

## **The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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. XX of 2008.

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## **The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008**

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## **The Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008**

**THE STATES**, in pursuance of their Resolutions of the 28<sup>th</sup> February, 2003<sup>a</sup> and the 12<sup>th</sup> March, 2008<sup>b</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 islands of Guernsey, Herm and Jethou.

### **Power to enact Ordinances in relation to animal welfare.**

1. The States may by Ordinance make such provision as they think fit in relation to animal welfare and the protection of animals.

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

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

- (a) cruelty to animals, including causing them pain, injury, suffering, fear and distress and ill-treating, neglecting and abandoning them,
- (b) the importation, exportation and transportation of animals,
- (c) experimental and scientific procedures involving the use of animals,

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<sup>a</sup> Article VI of Billet d'État No. III of 2003.

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

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- (d) the hunting, taking and trapping of animals,
- (e) the killing, slaughter, destruction and euthanasia of animals,
- (f) the protection of the dens, burrows, sets and other homes, and the young, of animals including, without limitation, the nests and eggs of birds,
- (g) the keeping, possession, ownership, breeding, buying, selling and other disposal of animals, and disqualification from those activities,
- (h) the feeding, watering, treatment, care, shelter and housing of animals,
- (i) the marking, ringing, tagging, tattooing, micro-chipping or identification in any other manner of animals,
- (j) the importation, exportation, possession, buying and selling of, and other trading or dealing in, dead animals and their skins, plumage or other parts or any derivative thereof,
- (k) the removal, seizure, detention, custody and confiscation of animals,
- (l) the disposal of animal carcasses,

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- (m) the control and restraint of animals, and liability for injury or damage caused by them,
- (n) the carrying out of operations on animals, the use of anaesthetics and the practice of veterinary surgery and the paraveterinary professions,
- (o) the provision of services in relation to or ancillary to animals and the care and keeping of animals,
- (p) the licensing of slaughtermen, knackers and farriers,
- (q) the issue of codes of practice, guidance and recommendations, and their status in law,
- (r) the ownership and operation of buildings and other premises and land in or on which animals are kept (including, without limitation, sanctuaries, pet shops, boarding and breeding establishments, kennels, livery and riding stables, slaughterhouses, zoos, aquariums, parks and farms of any description),
- (s) the public exhibition of animals and public performances by them including, without limitation, displays, shows, circuses and competitions,
- (t) the training of animals,
- (u) stray and abandoned animals,

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- (v) dangerous, wild and exotic animals,
- (w) the farming and fishing of animals,
- (x) animal fighting,
- (y) the control of disease, infection and infestation in animals and the control of animals on the grounds of nuisance or the protection of public health, plant health or animal health,
- (z) the use of poisons, baits and traps,
- (aa) exceptions and derogations from any prohibition or restriction imposed by an Ordinance or other instrument under this Law including, without limitation, exceptions and derogations for the purposes of education, research and science,
- (bb) powers of entry, inspection, search, detention and arrest for the purpose of ensuring compliance with the provisions of any Ordinance or other instrument under this Law,
- (cc) the seizure and deprivation of ownership or possession of animals,
- (dd) the seizure, deprivation of ownership or possession, destruction and disposal of substances, equipment and

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other objects and things,

- (ee) the implementation of –
  - (i) any international instrument relating to animal welfare and the protection of animals or any aspect thereof,
  - (ii) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,subject to such exceptions, adaptations and modifications as may be specified in the Ordinance,
- (ff) the administration and enforcement of the provisions of any Ordinance or other instrument under this Law and the authorisation of persons (whether police officers, officers of the Department or any other persons or class or description of persons) for the purposes of such administration and enforcement,
- (gg) the granting (conditionally or otherwise), variation, revocation and suspension of licences or other descriptions of authorisation for the doing of anything restricted, regulated or controlled by any Ordinance or other instrument under this Law,
- (hh) the making of applications for such licences or

authorisations,

- (ii) the establishment of a tribunal to deal with appeals against decisions made under any Ordinance or other instrument under this Law, and a panel of persons from whom the members of the tribunal are to be drawn,
- (jj) the jurisdiction and powers of the courts, and the constitution and procedure of the courts, in relation to any Ordinance or other instrument under this Law,
- (kk) the levying of fees, and
- (ll) the recovery of costs associated with the administration and enforcement of any Ordinance or other instrument under this Law.

**General provisions as to Ordinances, etc.**

3. (1) An Ordinance under this Law –

- (a) may be amended or repealed by a subsequent Ordinance hereunder, and
- (b) may contain such transitional, consequential, incidental, supplementary and savings provisions as the States think fit.

(2) Any power to make an Ordinance under this Law may be exercised –

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- (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 make provision in relation to the creation, trial (summarily or on indictment) and punishment of offences and may (for the avoidance of doubt) specify penalties which may be imposed by the Magistrate's Court which exceed the limits of jurisdiction for the time being imposed on that Court by section 10 of the

Magistrate's Court (Guernsey) Law, 1954<sup>c</sup>,

- (b) may empower the Department, any other department of the States and any other body (including, without limitation, any court in Guernsey) 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 make provision for the purpose of dealing with matters arising out of or related to animal welfare and the protection of animals or any international instrument relating thereto,
- (d) 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,
- (e) may make provision under the powers conferred by this Law notwithstanding the provisions of any enactment for the time being in force,
- (f) may repeal, replace, amend, extend, adapt, modify or disapply –

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<sup>c</sup> Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

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- (i) any enactment (including, without limitation, this Law and any enactment specified in the Schedule), but only to the extent that it has force of law in Guernsey, and
- (ii) any rule of custom or law,
- (g) may make provision of any such extent as is made or as may be made by or under any enactment specified in the Schedule, and
- (h) without prejudice to the generality of the foregoing, 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.

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**NOTE**

*The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.*

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**Interpretation.**

4. (1) In this Law, unless the context requires otherwise –

"**animal**" means any living creature except man,

"**animal welfare and the protection of animals**" includes, without

limitation, the matters set out in section 2,

**"the Department"** means the States Commerce and Employment Department,

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

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

**"Guernsey"** includes Herm and Jethou,

**"implementation"**, in relation to –

- (a) any international instrument relating to animal welfare and the protection of animals,
- (b) any right, power, liability, obligation, prohibition or restriction created or arising, or any remedy or procedure provided for, by or under any such international instrument,

includes the enforcement or enactment thereof, and the securing of the administration, execution, recognition, exercise or enjoyment thereof, in or under domestic law,

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

**"international instrument"** means –

- (a) any convention, treaty, protocol or other international instrument, or any provision thereof, and
- (b) any Community provision within the meaning of section 3(1) of the European Communities (Implementation) (Bailiwick of Guernsey) Law, 1994<sup>d</sup>,

whether or not binding on Guernsey,

**"penalty"** includes fines, imprisonment, confiscation, forfeiture, deprivation of ownership and disqualification from ownership,

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

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

(2) Any reference in this Law to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

**Territorial waters.**

5. This Law extends to the territorial waters adjacent to Guernsey.

**Citation.**

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<sup>d</sup> Order in Council No. III of 1994.

**6.** This Law may be cited as the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008.

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**NOTE**

*The Law received Royal Sanction on 9th October, 2008 and was registered on the Records of the Island of Guernsey on 28th October, 2008.*

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SCHEDULE

Section 4

ENACTMENTS WHICH MAY BE REPEALED, ETC BY ORDINANCE UNDER  
THIS LAW

1. Ordonnance pour la Protection des Pigeons, 1933<sup>e</sup>.
2. Stray Dogs Ordinance, 1941<sup>f</sup>.
3. Slaughter of Livestock (Use of Humane Killers) Ordinance, 1948<sup>g</sup>.
4. Protection of Wild Birds Ordinance, 1949<sup>h</sup>.
5. Pests (Control and Destruction) Ordinance, 1965<sup>i</sup>.
6. Protection of Animals Ordinance, 1976<sup>j</sup>.
7. Dogs (Liability and Protection of Livestock) Ordinance, 1982<sup>k</sup>.
8. Summary Offences (Bailiwick of Guernsey) Law, 1982<sup>l</sup> (sections 2 and 5).
9. Control of Birds Ordinance, 1985<sup>m</sup>.
10. Veterinary Surgery and Animal Welfare Ordinance, 1987<sup>n</sup>.
11. Animal Experiments (Bailiwick of Guernsey) Law, 1992<sup>o</sup>.

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<sup>e</sup> Recueil d'Ordonnances Tome VIII, p. 301; and Tome XXIII, p. 262.

<sup>f</sup> Recueil d'Ordonnances Tome IX, p. 144 and Tome X, p. 315.

<sup>g</sup> Recueil d'Ordonnances Tome VIII, p. 21; and No. XVI of 1996.

<sup>h</sup> Recueil d'Ordonnances Tome IX, p. 306; Tome XIV, p. 102; Tome XIX, p. 338; and Tome XXII, p. 136.

<sup>i</sup> Recueil d'Ordonnances Tome XIV, p. 103; and Tome XXII, p. 161.

<sup>j</sup> Recueil d'Ordonnances Tome XX, p. 369; Tome XXIII, p. 472; and Tome XXVI, p. 110.

<sup>k</sup> Recueil d'Ordonnances Tome XXII, p. 190.

<sup>l</sup> Ordres en Conseil Vol. XXVII, p. 397; and Vol. XXXII, p. 380.

<sup>m</sup> Recueil d'Ordonnances Tome XXIII, p. 258.

<sup>n</sup> Recueil d'Ordonnances Tome XXIV, p. 51.

<sup>o</sup> Order in Council No. X of 1992.

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12. Protection of Game Ordinance, 1994<sup>P</sup>.
13. Any enactment made under an enactment mentioned in this Schedule.

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<sup>P</sup> Recueil d'Ordonnances Tome XXVI, p. 337.