

# PROJET DE LOI

ENTITLED

## **The Emergency Powers (Bailiwick of Guernsey) Law, 1965**

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*[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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\* Ordres en Conseil Vol. XX, p. 6; as amended by the Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988 (Ordres en Conseil Vol. XXXI, p. 154); the Telecommunications (Bailiwick of Guernsey) Law, 2001 (No. XIV of 2001); the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005 (No. VII of 2005); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

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### ARRANGEMENT OF SECTIONS

1. Power of Emergency Powers Authority to declare a state of emergency.
2. Power of Emergency Powers Authority to make regulations.
- 2A. Food hazard emergencies.
- 2B. Oath to be taken by members of Authority.
3. Interpretation.
- 3A. Extension of Law to territorial waters.
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SCHEDULE Food Hazard Emergencies.

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## **The Emergency Powers (Bailiwick of Guernsey) Law, 1965**

**THE STATES**, in pursuance of their Resolution of the twenty-ninth day of July, nineteen hundred and sixty-four, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

### **Power of [Emergency Powers Authority] to declare a state of emergency.**

1. (1) If at any time it appears to the States of Guernsey [Emergency Powers Authority] (hereafter in this Law referred to as "**the [Emergency Powers Authority]**") that there have occurred, or are about to occur, events of such a nature as to be calculated, by interfering with the supply and distribution of food, water, fuel or light, or with the means of transport, [or with the provision of telecommunications services (within the meaning of the Telecommunications (Bailiwick of Guernsey) Law, 2001),] to deprive the community within the Bailiwick of Guernsey or any substantial portion of that community, of the essentials of life, [or events of such a nature as to jeopardise the economic interests of the Bailiwick of Guernsey or any part thereof,] the [Emergency Powers Authority] may, by order, declare that a state of emergency exists.

[(1A) The Emergency Powers Authority may also, by order, declare that a state of emergency exists if it appears to the Authority that there is a threat to security, public order or public health within the Bailiwick of Guernsey or any part thereof arising from any act of terrorism which has occurred or is occurring or which the Authority believes is threatened or about to occur.

(1B) In this section "**terrorism**" has the meaning given by section 1 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002<sup>a</sup>.]

(2) In any case where an order has been made under this section, the order shall be laid before a meeting of the States of Guernsey as soon as may be after the making thereof, and if at that meeting the States of Guernsey resolve that the order be annulled, the order and any regulations made by virtue thereof under the next succeeding section shall cease to have effect but without prejudice to anything done thereunder or to the making of a new order by the [Emergency Powers Authority].

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**NOTES**

*In section 1,*

*the words in square brackets in the marginal note thereto, in the first, second and fifth pairs of square brackets in subsection (1), and in the square brackets in subsection (2), were substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 1, with effect from 7th May, 2005;<sup>1</sup>*

*the words in the third pair of square brackets in subsection (1) were inserted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, paragraph 7(a), with effect from 1st October, 2001;*

*the words in the fourth pair of square brackets in subsection (1) were inserted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 2, with effect from 7th May, 2005;*

*subsection (1A) and subsection (1B) were inserted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 3, with effect from 7th May, 2005.*

*The following Order has been made under section 1:*

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<sup>a</sup> No. XVI of 2002.

*Emergency Powers (Declaration of State of Emergency) (Bailiwick of Guernsey) (Repeal) Order, 1976.*

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**Power of [Emergency Powers Authority] to make regulations.**

2. (1) Where a state of emergency has been declared as aforesaid, and so long as the order by which it has been declared remains in force, the [Emergency Powers Authority] may make regulations for securing the essentials of life to the community, [or for –

- (a) protecting the economic interests,
- (b) maintaining security or public order, or
- (c) safeguarding public health,

of or within the Bailiwick of Guernsey or any part thereof,] and those regulations may confer or impose on any person designated therein by the [Emergency Powers Authority] such powers and duties as the [Emergency Powers Authority] may deem necessary for the preservation of peace, for securing and regulating the supply and distribution of food, water, fuel, light, and other necessities, for maintaining the means of transit or transport, [for securing the provision of telecommunications services (within the meaning of the Telecommunications (Bailiwick of Guernsey) Law, 2001),] and for any other purposes essential to the [security, public order and public health] and the life [and economic interests] of the community, and may make such provisions incidental to the powers aforesaid as may appear to the [Emergency Powers Authority] to be required for making the exercise of those powers effective:

Provided that such regulations shall not impose any form of industrial conscription or make it an offence for any person to take part in a strike or peacefully to

persuade any other person or persons to take part in a strike.

(2) Any regulations under this section shall be laid before a meeting of the States of Guernsey as soon as may be after the making thereof, and if, at that meeting or at the next subsequent meeting, the States of Guernsey resolve that the regulations be annulled, the regulations shall cease to have effect but without prejudice to anything done thereunder or to the making of new regulations by the [Emergency Powers Authority].

(3) Any person who contravenes or attempts to contravene or fails to comply with any regulations under this section shall, except where the regulations otherwise provide, be guilty of an offence and any person so guilty of an offence [shall be liable –

- (a) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or
- (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale (or such other sum as the States may by Ordinance prescribe), or to imprisonment for a term not exceeding 6 months, or to both,

together with the forfeiture of any goods or money in respect of which the offence was committed.]

(4) Any regulations under this section may be added to, altered, or revoked at any time by the States of Guernsey or by regulations made in like manner and subject to the like provisions as the original regulations.

(5) The expiry or revocation of any regulations under this section shall not be deemed to have affected the previous operation thereof, or the validity of any action taken thereunder, or any penalty or punishment incurred in respect of any contravention or failure to comply therewith, or any proceeding or remedy in respect of any such punishment or penalty.

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**NOTES**

*In section 2,*

*the words in square brackets in the marginal note thereto, in the first, third, fourth and eighth pairs of square brackets in subsection (1), and in the square brackets in subsection (2), were substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 1, with effect from 7th May, 2005;<sup>2</sup>*

*the words in the second, sixth and seventh pairs of square brackets in subsection (1) were substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, respectively section 4(a), section 4(b) and section 4(c), with effect from 7th May, 2005;*

*the words in the fifth pair of square brackets in subsection (1) were inserted by the Telecommunications (Bailiwick of Guernsey) Law, 2001, section 33, Schedule 2, Part II, paragraph 7(b), with effect from 1st October, 2001;*

*the words in square brackets in subsection (3) were substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 5, with effect from 7th May, 2005.*

*The following Regulations have been made under section 2:*

*Water Supply (Control) (Repeal) (Guernsey) Regulations, 1976.*

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**[Food hazard emergencies.**

**2A.** The Schedule to this Law shall have effect.]

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**NOTE**

*Section 2A was inserted by the Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988, section 1(b), with effect from 21st December, 1988.*

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**[Oath to be taken by members of Authority.]**

**2B.** (1) An oath or affirmation must be taken by every person who –

- (a) is a member, permanent or ad hoc, of the Emergency Powers Authority,
- (b) attends any meeting of the Authority as a government representative,
- (c) is an officer of the Authority, or
- (d) performs any task in the course of which he may obtain access to the official records of the Authority.

(2) The oath or affirmation must be taken by the person concerned –

- (a) before he begins to act in the performance of his functions as a member or officer of the Authority,
- (b) before he attends any meeting of the Authority as a government representative, or (as the case may be)
- (c) before he is permitted access to the official records of the Authority.

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- (3) The oath or affirmation must be taken before the Bailiff.
- (4) The oath or affirmation shall be in such form as the States may prescribe by Ordinance, and any such Ordinance –
  - (a) may prescribe different forms of oath or affirmation for different cases and circumstances, and
  - (b) may be amended or repealed by a subsequent Ordinance hereunder.
- (5) A person violating an oath or affirmation required by this section is guilty of an offence and liable –
  - (a) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding 2 years, or to both, or
  - (b) on summary conviction, to a fine not exceeding level 5 on the uniform scale, or to imprisonment for a term not exceeding 6 months, or to both.
- (6) For the purposes of this section –

**"Authority"** means the Emergency Powers Authority,

**"Bailiff"** means the Bailiff, Deputy-Bailiff, Lieutenant-Bailiff or Juge Délégué,

**"government representative"** means a person who represents the

States of Guernsey, the States of Alderney or the Chief Pleas of Sark,

**"member of the Authority"** includes its Chairman,

**"officer of the Authority"** means a person employed, contracted or retained by the States who is responsible to the Authority,

**"official records of the Authority"** means any information under the control of the Authority and acquired or compiled in the course of the performance of the Authority's functions under this Law.]

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**NOTES**

*Section 2B was inserted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 6, with effect from 7th May, 2005.*

*The following Ordinance has been made under section 2B:*

*Emergency Powers (Forms of Oath) Ordinance, 2005.*

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**Interpretation.**

3. (1) In this Law the expression "**States of Guernsey [Emergency Powers Authority]**" means the States of Guernsey [Emergency Powers Authority] as constituted from time to time by Resolution of the States of Guernsey.

(2) The Interpretation (Guernsey) Law, 1948, shall apply to the interpretation of this Law throughout the Bailiwick of Guernsey.

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**NOTES**

*In section 3, the words in square brackets in subsection (1) were substituted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005,*

section 1, with effect from 7th May, 2005.<sup>3</sup>

*The functions, rights and liabilities of the Policy Council and of the Chief Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Emergency Powers Authority and its Chairman by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 8, with effect from 7th May, 2005, subject to the savings and transitional provisions in section 10 of the 2005 Law, whereby anything done before, or in the process of being done on, that date by or in relation to the Policy Council or the Chief Minister under or by virtue of this Law shall have effect as if done or (as the case may be) may be continued by or in relation to the Emergency Powers Authority or (as the case may be) its Chairman.*<sup>4</sup>

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**[Extension of Law to territorial waters.**

**3A.** The provisions of this Law and of any order and regulations made under it extend to the territorial waters adjacent to the Bailiwick of Guernsey.]

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**NOTE**

*Section 3A was inserted by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 7, with effect from 7th May, 2005.*

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**Citation.**

**4.** This Law may be cited as the Emergency Powers (Bailiwick of Guernsey) Law, 1965.

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**NOTE**

*The Law received Royal Sanction on 29th January, 1965 and was registered on the Records of the Island of Guernsey and came into force on 2nd March, 1965.*

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FOOD HAZARD EMERGENCIES

**Declaration of food hazard emergency.**

1. (1) If it appears to the [Emergency Powers Authority] that a substance has or may have escaped in such circumstances that a hazard to human health through human consumption of food exists or may arise in any part of the Bailiwick, the [Emergency Powers Authority] may, by order, declare that a food hazard emergency exists.

(2) Subsection (2) of section 1 of this Law applies to an order under this paragraph as it applies to an order under that section.

**Food hazard emergency regulations.**

2. (1) Whilst there remains in force an order under paragraph 1 of this Schedule, the [Emergency Powers Authority] may make regulations for safeguarding human health against hazards which may arise through human consumption of food.

(2) Regulations under this paragraph may, without prejudice to the generality of the foregoing, prohibit, restrict or control any or all of the following –

- (a) agricultural, horticultural and fishing activities,
- (b) the gathering or picking of wild flowers, fruits or plants,
- (c) the slaughter of any creature,

- (d) the supply, or the preparation, processing or possession for the purpose of supply, of food and of anything from which food could be derived,
- (e) the movement of food and of anything from which food could be derived,

and such regulations may make any incidental provision which the [Emergency Powers Authority] considers expedient.

(3) Subsections (2), (3), (4) and (5) of section 2 of this Law apply to regulations under this paragraph as they apply to regulations under that section.

(4) Any enactment or rule of law which conflicts with any provision of regulations made under this paragraph shall be of no effect to the extent of such conflict.

**Food hazard emergency directions etc.**

3. (1) When an order under paragraph 1 of this Schedule has been made in consequence of the escape or possible escape of a substance, then, for the purpose of preventing human consumption of food which, in its opinion, may thereby be rendered unsuitable for human consumption, the [Emergency Powers Authority] may –

- (a) give to any person such directions as may appear to it to be necessary or expedient,
- (b) itself do anything which appears to it to be necessary or expedient,

and such directions may be given and such action may be taken after the order has ceased to be in force.

(2) A person who fails to comply with a direction under this paragraph or who causes another person to fail to comply with such a direction shall be –

- (a) guilty of an offence and liable to be dealt with as if he had failed to comply with regulations made under section 2 of this Law, and
- (b) liable to pay to the [Emergency Powers Authority] (which may recover the same as a civil debt due to the States of Guernsey) any expenses reasonably incurred by it in doing anything under sub-paragraph (1)(b) of this paragraph in consequence of the action or inaction of that person.

**Powers of authorised persons etc.**

4. (1) For the purpose of determining whether and in what manner any of the powers conferred by this Schedule should be exercised, the [Emergency Powers Authority] may authorise any person to enter and search, subject to this paragraph, any premises on or in which he has reasonable grounds to suspect that there is present –

- (a) any food which is or may be or may become unsuitable for human consumption, or
- (b) anything from which food in such condition could be

derived.

(2) The [Emergency Powers Authority] may authorise any person, for the purpose of –

- (a) enforcing regulations made under paragraph 2 of this Schedule,
- (b) any direction given under paragraph 3(1)(a) of this Schedule,
- (c) exercising its powers under paragraph 3(1)(b) of this Schedule,

to enter and search, subject to this paragraph, any premises onto or into which he has reasonable grounds to suspect that it is necessary for him to enter for that purpose.

(3) A person acting pursuant to an authorisation under this paragraph may, for the purpose of performing his functions –

- (a) use such reasonable force as may be necessary,
- (b) take with him any other person and any equipment and materials,
- (c) open any container, carry out searches, inspections, measurements and tests,
- (d) take samples, require the production of documents,

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books and records and take copies of the same,

- (e) seize such items and substances as he considers necessary,
- (f) in relation to any vessel or aircraft –
  - (i) require it to stop,
  - (ii) detain it,
  - (iii) require details of any substance or article on board or lost from it,
  - (iv) require the attendance and assistance of the person in charge and of any person on board,
  - (v) require the person in charge to take it and its crew to the port appearing to the authorised person to be the nearest convenient port or take it there himself.

(4) A person acting pursuant to an authorisation under this paragraph shall –

- (a) produce his authority if requested to do so,
- (b) state, if so requested, the function which he proposes to perform and his grounds for proposing to perform it,

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- (c) perform his functions at a reasonable hour unless it appears to him that there are grounds for suspecting that the purpose of their performance may thereby be frustrated,
- (d) not enter any dwelling without the consent of the person entitled to grant entry unless –
  - (i) upon information laid before the Bailiff on oath, the Bailiff has issued a warrant under this sub-paragraph authorising him so to enter, and
  - (ii) he produces that warrant, if requested to do so, upon seeking to enter the dwelling,
- (e) if he detains a vessel or an aircraft, serve on the person in charge a notice in writing stating that it is to be detained until the notice is withdrawn by the service on that person of a further notice in writing by a person authorised under this paragraph.

(5) A person authorised under this paragraph may not exercise his powers in relation to a foreign vessel unless he has reasonable grounds to suspect –

- (a) that it is a fishing boat, or
- (b) that there has been or is being landed from it in the Bailiwick something to which any regulations under

paragraph 2 of this Schedule or any directions under paragraph 3 of this Schedule relate.

- (6) Any person who –
- (a) intentionally obstructs an authorised person in the performance of his functions,
  - (b) fails without reasonable excuse to comply with a requirement made by an authorised person in the performance of his functions,
  - (c) in purporting to give information required by an authorised person for the performance of any of his functions –
    - (i) makes a statement which he knows to be false in a material particular, or
    - (ii) recklessly makes a statement which is false in a material particular, or
    - (iii) intentionally fails to disclose any material particular,

shall be guilty of an offence and liable to be dealt with as if he had failed to comply with regulations made under section 2 of this Law.

(7) A person authorised under this paragraph shall not be liable in any criminal or civil proceedings for anything done or omitted in the purported

performance of his functions if the thing is done or omitted in good faith and on reasonable grounds.

**Interpretation and construction of Schedule.**

5. (1) In this Schedule, unless the context otherwise requires –

"**creature**" means any living organism other than a human being or a plant,

"**escape**", in relation to a substance, includes its release or expulsion by human agency or by any other cause,

"**fishing**" includes fishing for shellfish,

"**fishing boat**" means any vessel for the time being employed in fishing or ancillary operations,

"**food**" includes chewing gum and other products of a like nature and use, any drink (including water) and any article or substance (including water) used as an ingredient in the preparation of food or drink or of such products, but does not include anything used only as a drug or other medicine,

"**foreign vessel**" means anything made or adapted for the conveyance by water of people or property which is not registered, or exempt from registration, under any enactment for the time being in force in the Bailiwick,

"**premises**" means any land, building, vehicle, vessel and aircraft anywhere in the Bailiwick and the territorial waters adjacent thereto and

includes also a vessel registered in Guernsey wherever she may be,

"vessel" includes anything made or adapted for the conveyance by water of people or property, and also any man-made structure at sea.

(2) For the purposes of this Schedule food derived from any creature is to be treated as also derived –

- (a) from any feeding stuff which that creature has eaten, and
- (b) from anything from which such feeding stuff was derived,

and references in this Schedule to anything from which food could be derived shall be construed accordingly.]

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**NOTES**

*The Schedule was inserted by the Emergency Powers (Amendment) (Bailiwick of Guernsey) Law, 1988, section 1(c), with effect from 21st December, 1988.*

*In the Schedule, the words in square brackets in paragraph 1, paragraph 2, paragraph 3 and paragraph 4 were substituted by the by the Emergency Powers (Bailiwick of Guernsey) (Amendment) Law, 2005, section 1, with effect from 7th May, 2005.<sup>5</sup>*

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<sup>1</sup> These words were previously substituted by the Machinery of Government

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(Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 14, with effect from 6th May, 2004.

<sup>2</sup> These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 14, with effect from 6th May, 2004.

<sup>3</sup> These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 14, with effect from 6th May, 2004.

<sup>4</sup> The functions rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Law were transferred to them from, respectively, the Emergency Council and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 14, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

<sup>5</sup> These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 14, with effect from 6th May, 2004.