

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959

(Registered on the Records of the Island of Guernsey
on the 7th day of November, 1959.)



1965.

XII
1959

ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 7th day of November, 1959, before Sir Ambrose James Sherwill, C.B.E., M.C., Bailiff; present :— Sir John Leale, William Robert Freake Clark, Esquire, Bertram Bartlett, Esquire, O.B.E., Donald Carey Brock, Esquire, C.B.E., Osmond Priaulx, Esquire, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram Guy Blampied, Claude Fortescue Nason, Henry Robin Bichard and Stanley Walter Gavey, Esquires, Jurats.

The Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 19th day of October, 1959, ratifying a *Projet de Loi* entitled "The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959",—the Court, after the reading of the said Order in Council and after having heard Her Majesty's Procureur thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth:—

At the Court at Buckingham Palace

The 19th day of October, 1959.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT
 LORD PRIVY SEAL
 LORD MILLS
 MR. SECRETARY MACLEOD
 SIR DAVID ECCLES
 MR. MAUDLING
 MR. WATKINSON
 MR. REDMAYNE

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 6th day of October, 1959, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolutions of the 10th day of June, 1953, the 19th day of February, 1954, the 23rd day of March and the 30th day of November, 1955, and the 17th day of December, 1958, the States of Deliberation at a meeting held on the 27th day of May, 1959, approved a Bill or “Projet de Loi” entitled

“The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the States of Guernsey entitled “The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959” and to order that the same shall have force of law in the Island of Guernsey.’

“THE LORDS OF THE COMMITTEE, in obedience to Your Majesty’s said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi.”

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant-Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959

ARRANGEMENT OF SECTIONS

Section

PART I

*Preservation of Natural Beauty and Control of
Agricultural Land Committee*

1. Appointment of Preservation of Natural Beauty and Control of Agricultural Land Committee.
2. Constitution of Committee.

PART II

Control of Agricultural Land

3. Control by Ordinance of development of agricultural land.
4. Savings.
5. Interpretation of Part II.

PART III

Preservation of Natural Beauty

6. Control by Ordinance of preservation of natural beauty.
7. Obstructions on cliff paths.
8. Interpretation of Part III.

Section

PART IV

General

9. Period of validity of declarations, permissions, permits or licences.
10. Applications for preliminary declaration.
11. Prescription of penalties by Ordinance.
12. No compensation for refusal to grant permission.
13. Powers of States Legislation Committee.
14. Service of Notices.
15. Appeals.
16. Powers of Committee to visit sites.
17. States not bound by this Law.
18. Repeals.
19. Citation.
20. Commencement.

SCHEDULE: Enactments repealed.

PROJET DE LOI

ENTITLED

The Preservation of Natural Beauty and Control of Agricultural Land (Guernsey) Law, 1959

THE STATES, in pursuance of their Resolutions of the tenth day of June, nineteen hundred and fifty-three, the nineteenth day of February, nineteen hundred and fifty-four, the twenty-third day of March and the thirtieth day of November, nineteen hundred and fifty-five, and the seventeenth day of December, nineteen hundred and fifty-eight, have approved the following provisions which, subject to Sanction of Her Most Excellent Majesty in Council, shall have force of law in this Island.

PART I

Preservation of Natural Beauty and Control of Agricultural Land Committee

1. The States shall, in accordance with the succeeding provisions of this Part of this Law, appoint a Committee to be styled the Preservation of Natural Beauty and Control of Agricultural Land Committee (hereinafter referred to as "the Committee") with authority to exercise the powers and perform the duties conferred and imposed upon it by or under this Law.

Appoint-
ment of
Preservation
of Natural
Beauty and
Control of
Agricul-
tural Land
Committee.
2. (1) The Committee shall consist of a President appointed by the States from among the members of

Constitution
of Com-
mittee.

the States having a seat therein and six other members at least two of whom shall have experience in the agricultural industry.

(2) Two members of the Committee shall retire on the thirtieth day of April, nineteen hundred and sixty-two, and thereafter two members shall retire on the thirtieth day of April of each succeeding year.

PART II

Control of Agricultural Land

Control by Ordinance of development of agricultural land.

3. The States may, from time to time, by Ordinance make such provision as they may think necessary or expedient for controlling the development of agricultural land in this Island and, without prejudice to the generality of the foregoing, they may, from time to time, by Ordinance, in particular, provide for all or any of the following matters:—

- (a) the considerations to be taken into account by the Committee in deciding to grant any permission required, in accordance with the provisions of any such Ordinance, to carry out any development of agricultural land;
- (b) the control of the removal of any materials forming part of the surface or subsoil of agricultural land and the restoration of such land as agricultural land;
- (c) such incidental and supplementary matters for which the States deem it necessary or expedient to provide.

Savings.

4. (1) Permission under the provisions of an Ordinance made under the provisions of this Part of this Law shall not be required for the carrying out of any operation which, for the purposes of that Part

of this Law, would constitute development of agricultural land if, prior to the appointed day, a “prononcement préalable”, a permit or a licence was given or issued favourable to, or in respect of, that operation by any Committee, if that “prononcement préalable”, permit or licence is still valid at the time of the commencement of the carrying out of that operation.

(2) Any “prononcement préalable” given as aforesaid prior to the appointed day shall be deemed to have been given for a period of validity of one year.

5. Unless the context otherwise requires, for the purposes of this Part of this Law the following expressions have the meanings hereby respectively assigned to them—

Interpreta-
tion of
Part II.

“agricultural land” means any land used or capable of being used for the purposes of any trade or business of dairy farming, the breeding, rearing or maintenance of livestock, market gardening or the outdoor cultivation of flowers, bulbs or nursery stock, but does not include land used as a garden other than a market garden;

“appointed day” means the day appointed by the States in pursuance of the provisions of section twenty of this Law as the day on which this Part of this Law shall come into force;

“development” means the carrying out of building, engineering, mining or other operations in, on, over or under agricultural land, but does not include the repair or replacement of buildings, the laying down, lifting or repairing of cables, wires, drains or water, gas or other pipes or the sinking of bore holes and wells for water.

PART III.

Preservation of Natural Beauty

Control by
Ordinance
of preserva-
tion of
natural
beauty.

6. The States may from time to time by Ordinance make such provision as they may deem necessary or expedient for preserving the natural beauty of this Island and for ensuring that movable and immovable structures when sited, erected, re-erected or structurally altered are not, because of their siting, exterior appearance or of the materials used in their construction, incongruous with their surroundings and, without prejudice to the generality of the foregoing, they may, from time to time, by Ordinance, in particular, provide for all or any of the following matters—

- (a) the control of the siting, erection or re-erection of, or the exterior structural alteration to, any movable or immovable structure which is visible from any public or other place to which the public has access, or which, when sited, erected or re-erected, will be so visible;
- (b) the control of the siting, erection or re-erection of, or the exterior structural alteration to, any movable or immovable structure which is situated on the cliffs, or on the land adjacent to the foreshores of this Island;
- (c) the demolition in whole or in part of any wall, hedge, bank or fence which is visible from any public or other place to which the public has access;
- (d) the control of the outdoor exhibition of any sign (which expression shall include any poster, bill, notice, advertising banner or flag) on or attached to the exterior of any movable or immovable structure, the placing of any such sign on any site and the

- painting of any such sign on any exterior surface of any movable or immovable structure where such sign so painted bears any reference to a commercial undertaking;
- (e) the control of the re-siting or the exterior decoration or re-decoration of any movable structure, or the removal of any such structure from any site in any case where, in the opinion of the Committee, its presence detracts from the amenities of the locality.

7. (1) A person shall not obstruct the passage of pedestrians on any cliff path. Obstructions on cliff paths.

(2) A person who contravenes the provisions of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding ten pounds.

8. Unless the context otherwise requires, for the purposes of this Part of this Law the following expressions have the meanings hereby respectively assigned to them— Interpretation of Part III.

“immovable structure” means any building or structure of whatsoever material or in whatsoever manner constructed and whether permanent or temporary which is or on erection will become realty;

“movable structure” means any structure (not being an immovable structure and other than a marquee or a tent) which is intended for any one or more of the following uses, namely—

- (a) for human habitation or for purposes ancillary thereto;
- (b) for housing animals or birds;
- (c) for the sale of refreshments;
- (d) as a store, shed, workshop, workplace or shelter.

PART IV

General

Period of validity of declarations, permissions, permits or licences.

9. Any preliminary declaration, permission, permit or licence given or issued under the provisions of this Law or of any Ordinance made hereunder shall remain valid for one year from the date on which it was given or issued.

Applications for preliminary declaration.

10. A person who desires to carry out any development or operation which is controlled by an Ordinance made under the provisions of this Law may, before making an application to the Committee in that behalf, apply to the Committee for a preliminary declaration as to whether, in principle, the Committee, on the submission to it of detailed plans or information, or both, as the Committee may require of the proposed operation, would be likely to grant permission in pursuance of the provisions of an Ordinance as aforesaid.

Prescription of penalties by Ordinance.

11. The States may, from time to time, by Ordinance prescribe the penalties which shall be incurred by any person who contravenes or attempts to contravene or fails to comply with the provisions of any Ordinance made under the provisions of this Law or any conditions attached by the Committee to any permission granted to undertake any of the operations mentioned in sections three and six hereof.

No compensation for refusal to grant permission.

12. In the event of the Committee refusing to grant an application under the provisions of any Ordinance made under the provisions of this Law, no compensation shall be payable by the States for any loss suffered by the applicant for such permission or any other person by reason of such refusal.

13. The States Legislation Committee, in carrying out its functions in pursuance of the provisions of paragraph (2) of Article 66 of the Reform (Guernsey) Law, 1948, may refuse to transmit to the States a draft Ordinance, to be made under the provisions of this Law, unless it is satisfied that the same has been prepared in pursuance of a Resolution of the States.

Powers of
States
Legislation
Committee.

14. Any notice which may be served for the purposes of this Law or of any Ordinance made hereunder shall be validly served—

Service of
notices.

- (a) on any person, if delivered to him, left, or sent by post addressed to him, at his usual or last known place of abode;
- (b) on any firm, if delivered to any partner of the firm, or left at, or sent by post to, the principal or last known principal place of business of the firm;
- (c) on any body corporate, if left at, or sent by post to, its registered office if situate in this Island or, if its registered office is not so situate, its principal or last known principal place of business in this Island.

15. (1) Any person aggrieved by any decision of the Committee under any of the provisions of this Law or of any Ordinance made hereunder may appeal therefrom to the Royal Court sitting as a Full Court on the grounds that the decision of the Committee was ultra vires or was an unreasonable exercise of its powers.

Appeals.

(2) Any appeal under this section shall be instituted by way of summons served on the President of the Committee to show cause why the decision appealed from should not be set aside or varied.

(3) On any appeal under this section the burden of satisfying the Royal Court that the decision of the Committee which is the subject of the appeal is *intra vires* or reasonable shall be discharged by the Committee, and the appellant shall be entitled to a final right of reply.

Powers of
Committee
to visit
sites.

16. In the exercise of its powers under this Law or of any Ordinance made hereunder the Committee may, for the purposes of arriving at any decision, visit any site, and no application under this Law or of any Ordinance made hereunder shall be refused by the Committee until it has first visited the site concerned.

States not
bound by
this Law.

17. Nothing in this Law contained or in any Ordinance made hereunder shall be taken to apply to the States or to any servant or agent of the States when acting for or on behalf of the States within the course of their employment or agency.

Repeals.

18. The Laws set out in the left-hand column of the Schedule to this Law are hereby repealed to the extent set out in the right-hand column of that Schedule.

Citation.

19. This Law may be cited as the Natural Beauty and Land Control Law, 1959.

Commence-
ment.

20. This Law shall come into operation on such date as the States may by Ordinance appoint and any such Ordinance may provide different dates as respects different provisions of this Law.

SCHEDULE Section eighteen

Enactments repealed

<i>Name of Law</i>	<i>Extent of repeal</i>
The Law entitled "Loi ayant rapport à la Conservation des Falaises et des Beautés Naturelles de l'Île, et à l'Établissement d'un Contrôle Administratif sur l'Érection de Bâtiments" registered on the Records of this Island on the second day of August, nineteen hundred and twenty-nine.	The whole Law.
The Law entitled "Loi ayant rapport à la Conservation des Falaises et des Beautés Naturelles de l'Île, et à l'Établissement d'un Contrôle Administratif sur l'Érection de Bâtiments" registered on the Records of this Island on the twenty-seventh day of June, nineteen hundred and thirty-two.	The whole Law.
The Law entitled "Loi au sujet de la Conservation des Beautés Naturelles, 1935" registered on the Records of this Island on the ninth day of March, nineteen hundred and thirty-five.	The whole Law.
The States Committees (Amendment) Law, Section six 1948.	

R. H. VIDELO,

Her Majesty's Greffier.