

THE BAILIFF OF GUERNSEY
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The President
States of Alderney
Island Hall
Royal Connaught Square
ALDERNEY
GY9 3UE

17th August, 2016

Dear Sir

The Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016

On the 29th June 2005, the States of Deliberation resolved as follows:-

INTERPRETATION OF LEGISLATION

XI. - After consideration of the Report dated 16th May, 2005, of the Policy Council:-

1. That legislation be enacted as recommended in that report
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision

A copy of the aforementioned report of 16th May, 2005, is enclosed.

On the 29th June 2016, the States of Deliberation resolved as follows:-

1. To approve the draft Projet de Loi entitled "The Interpretation (Bailiwick of Guernsey) Law, 2016", and to authorise the Bailiff to present a most humble petition to Her Majesty in Council praying for Her Royal Sanction thereto.

I enclose three copies of the Projet de Loi and shall be obliged if you will place it before the States of Alderney for their approval at their next meeting.

Yours faithfully,

A handwritten signature in cursive script, appearing to be 'R. Collas'.

POLICY COUNCIL

INTERPRETATION OF LEGISLATION

Executive Summary

This report proposes the enactment of legislation by which words and expressions generally employed in Bailiwick legislation are statutorily defined so as to avoid the necessity for their being redefined throughout every piece of legislation..

Report

Her Majesty's Procureur has written to the Policy Council in the following terms:

"As Members of the States will appreciate, the amount of legislation of all types – Projets de Loi, Ordinances and subordinate legislation – the latter including Departmental regulations and statutory instruments – has dramatically increased. Furthermore, legislation has also become increasingly complex. Routinely, legislation has to be interpreted: by the public, by Departments; by advisors; and ultimately, by the courts. A cardinal aid to the interpretation of a piece of legislation is the provision of definitions within the legislation itself, and Members will be aware of the extensive use made of definitions sections as aid to interpreting, and so applying, legislation.

However, many definitions are common to much, if not all, legislation, and accordingly to reduce the length and complexity of items of legislation, and to ease the burden on legislative draftsmen, it is the practice for legislatures to enact primary legislation defining words and expressions that recur in legislation. On the mainland the first such Act was the Interpretation Act, 1889, which was repealed and replaced by the Interpretation Act, 1978.

In Guernsey, as a result of representations made in 1947 by H.M. Comptroller, the States resolved to legislate to specify the interpretation to be placed upon certain words and expressions in general use in legislation, and the Interpretation (Guernsey) Law, 1948 was duly enacted. The 1948 Law was based on the Interpretation Act, 1889 so far as words and expressions commonly used in English statutes were deployed in Guernsey legislation. However, the words and expressions given statutory definitions by the 1948 Law are few, and in certain instances are now redundant, or require modification. Accordingly, I recommend that the States should enact legislation by which words and expressions generally employed in Guernsey legislation are statutorily defined so as to avoid the necessity for their being redefined throughout every piece of legislation. The list of words and expressions would be broadly derived from the Interpretation Act, 1978 and would be extended and modified to reflect the legislative circumstances of the Bailiwick.

As a separate item, Members will be aware that primary legislation – Projets de Loi – will not infrequently empower the States by Ordinance, or a Department by regulation, to implement the purpose of the primary legislation. Primary legislation which confers such powers should contain extensive so called 'boilerplate' clauses 'bolted on' to the legislation prescribing the manner and extent of the exercise by the States or Department, as the case may be, of the delegated powers. The repetition in primary legislation of such 'boilerplate' clauses lengthens it, and I therefore recommend that the States, as part of the legislation referred to above, should provide for routine provisions relating to subordinate legislation to be deemed to be included in primary legislation, unless the contrary intention appears, but subject to such modifications, adaptations and exceptions as the particular primary legislation might specify.

The draft legislation to this effect has been drafted (although it is not yet in final form), and I would recommend that this matter, which is not controversial, be considered by the Policy Council as soon as practicable and placed before the States without delay thereafter. The proposed legislation will incorporate provisions of the 1948 Law which are still relevant; provisions of the Interpretation Act, 1978 which are relevant to Guernsey (subject to the comment above); and other interpretative and 'boilerplate' provisions which will be invaluable to Guernsey, and also to the other insular legislatures of Alderney and Sark. If the Policy Council is agreeable to prompting such legislation, might I ask that the authorities of Alderney and Sark also be consulted to determine whether they wish the legislation to apply to those Islands. I strongly recommend that the proposed legislation should apply throughout the Bailiwick."

The Policy Council concurs with the view expressed by Her Majesty's Procureur and the authorities in Alderney and Sark have confirmed that they wish the proposed legislation to apply in those Islands.

Recommendation

The Policy Council therefore recommends the States to direct the preparation of legislation on the lines set out in this report.

L C Morgan
Chief Minister

16th May 2005

(NB The Treasury and Resources Department has no comment on the proposals)

The States are asked to decide:-

XI.- Whether, after consideration of the Report dated 16th May, 2005, of the Policy Council, they are of the opinion:-

1. That legislation be enacted as recommended in that Report.
2. To direct the preparation of such legislation as may be necessary to give effect to their above decision.