

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Export of Tomatoes (Prohibition) (Implementation) Ordinance, 1981 *

[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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* Recueil d'Ordonnances Tome XXII, p. 14; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

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ARRANGEMENT OF SECTIONS

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(Made on the 25th March, 1981.)

The Export of Tomatoes (Prohibition) (Implementation) Ordinance, 1981

THE STATES, in pursuance of their Resolution of the twenty-eighth day of March, nineteen hundred and seventy-nine, and in exercise of the powers conferred upon them by section one and section three of the Export of Tomatoes (Prohibition) (Guernsey) Law, 1981^a, hereby order: –

Prohibition orders against convicted persons.

1. (1) Where a person is convicted of a horticultural offence Her Majesty's Procureur shall, at the request of the Committee, apply to the court before which the said person was convicted to make a prohibition order in accordance with the provisions of section two of this Ordinance against the said person and the court may, subject to the provisions of the next succeeding subsection –

- (a) where the date of such conviction occurs during the period of three years next following the date on which this Ordinance comes into force, make the prohibition order applied for if the said person has, during the part of the said period preceding the date of such conviction, been convicted of a horticultural offence on at least two separate occasions,
- (b) where the date of such conviction occurs after the expiration of the period of three years next following

^a No. I of 1981.

the date on which this Ordinance comes into force, make the prohibition order applied for if the said person has, during the period of three years immediately preceding the date of such conviction, been convicted of a horticultural offence on at least two separate occasions.

(2) The Court shall not make a prohibition order under the provisions of the last preceding subsection unless –

- (a) an appeal against the conviction to which the application for the prohibition order relates has been dismissed or the time within which such an appeal must be lodged has expired, and
- (b) the person against whom the prohibition order is being applied for has been served by Her Majesty's Procureur with notice in writing of his intention to apply for the prohibition order and unless the said person has had a reasonable opportunity of being heard thereon.

Effect of a prohibition order.

2. A prohibition order made against a person under the provisions of the last preceding section shall prohibit that person from delivering or attempting to deliver tomatoes to the Board for export during such period as may be specified in such order.

Application to set aside prohibition order.

3. Any person aggrieved by a prohibition order made against him under

the provisions of section one of this Ordinance prohibiting him from delivering or attempting to deliver tomatoes to the Board for export during a period in excess of three weeks may, within the fourteen days next following the date of the prohibition order, apply to the Royal Court sitting as a Full Court to have the prohibition order set aside on the ground that the period specified therein is excessive.

Offences.

4. Any person –

- (a) who contravenes or attempts to contravene, or
- (b) who aids or abets another person to contravene or attempt to contravene,

the provisions of a prohibition order made under the provisions of section one of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale].

NOTE

In section 4, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Offences by bodies corporate.

5. When an offence under this Ordinance which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be

guilty of that offence and be liable to be proceeded against and punished accordingly.

Service of notices.

6. Any notice which may be served for the purposes of this Ordinance shall be validly served –

- (a) on any person, if delivered to him, left or sent by registered post or by recorded delivery service 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 registered post or by recorded delivery service to, the principal or last known principal place of business of the firm,
- (c) on any body corporate, if left at, or sent by registered post or by recorded delivery service 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.

Interpretation.

7. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Board" means the Guernsey Tomato Marketing Board incorporated under the provisions of the Tomato Marketing (Guernsey) Law,

1952, as amended^b,

"the Committee" means the States [Commerce and Employment Department],

"a horticultural offence" has the meaning assigned to it by subsection (1) of section one of the principal Law,

"the principal Law" means the Export of Tomatoes (Prohibition) (Guernsey) Law, 1981,

"Her Majesty's Procureur" includes Her Majesty's Comptroller,

"a prohibition order" has the meaning assigned to it by paragraph (a) of subsection (1) of section one of the principal Law.

NOTES

In section 7, the words in square brackets in the definition of the expression "the Committee" were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004.

The functions, rights and liabilities of the Committee for Horticulture and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Commerce and Employment Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 10, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

^b Ordres en Conseil Vol. XV, p. 341; Vol. XVI, p. 273; Vol. XVIII, p. 262; Vol. XXI, p. 295; No. IX of 1978.

Citation.

8. This Ordinance may be cited as the Export of Tomatoes (Prohibition) (Implementation) Ordinance, 1981.

Commencement.

9. This Ordinance shall come into force on the twenty-fifth day of March, nineteen hundred and eighty-one.