

THE TOURIST (GUERNSEY) LAW 1948

(Consolidated text)

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THE TOURIST (GUERNSEY) LAW 1948 TO 1998
(VEQAS CONSOLIDATION)

This law shall have force in the Islands of Guernsey, Herm and Jethou:-

States Tourist Board (1983 and 1998 Amendments)

1. (a) There shall be constituted a Board to be known as the States Tourist Board (hereinafter referred to as “the Board”).
- (b) The constitution of the Board shall be such as the States may from time to time resolve.

Duties (1998 Amendment)

2. Repealed.

(Apart from its specific duties under the Law, the duties of the Board shall be such as may be approved from time to time by Resolution of the States, and in consequence section 2 of the 1948 Law is repealed). (See also NB 23 below, re: States Resolutions).

Unauthorised provision of accommodation (1967 and 1998 Amendments)

3. No person shall provide sleeping accommodation, board, lodging or board and lodging, for reward for any person for a period of three weeks or less save under and in accordance with a permit (hereinafter referred to as “a boarding permit”) granted by the Board in respect of the premises concerned: (See also NB 3 below, re: Single Persons).

PROVIDED THAT for the purpose of this Section no account shall be taken of

- (a) persons engaged in full time domestic duties directly connected with the premises in which they sleep;
- (b) persons accommodated as pupils, teachers or organisers in a bona fide educational establishment, or persons engaged in full-time domestic duties and sleeping in such establishments;

- (c) persons accommodated in respect of an occupation directly concerned with the care of the sick or of mentally affected persons or of persons under their care as patients of such persons;
- (d) persons accommodated in premises under the direct control of the States;
- (e) children under ten years of age;
- (f) persons accommodated in such circumstances that the Board shall deem it unreasonable to apply the provisions of this Law.

Period of validity of boarding permits (1998 Amendment)

- 4. (a) A boarding permit shall have effect from 1st April in the year during which it is issued, or from the date of issue if later in that year or if so specified in the permit, until 31st March in the following year.
- (b) The Board may grant any boarding permit unconditionally or subject to such conditions either as to duration or otherwise as they may deem advisable.
- (c) Boarding permits shall be in writing and shall be deemed to be unconditional save insofar as any conditions thereof are clearly attached thereto or are notified in writing to the person to whom the boarding permit is granted.
- (d) The Board may at any time and from time to time revoke, suspend or vary the conditions of any boarding permit.

Grant, refusal etc of boarding permits (1998 Amendment)

- 5. (1) In considering whether to grant or refuse, suspend, revoke, attach conditions to, or vary any conditions of, a boarding permit the Board shall take into consideration-
 - (a) the nature of the accommodation, amenities, and service provided or to be provided;
 - (b) the overall nature, purpose and operation of the building or establishments in which accommodation is provided or to be provided;

- (c) the charges made or to be made for sleeping accommodation, and for meals, service and matters ancillary thereto, provided or to be provided for persons so accommodation in relation to what is or is to be provided for those charges;
 - (d) the interests taken as a whole of visitors generally and of the inhabitants of the Islands or any one or two of them;
 - (e) the breach (if any) by the applicant or holder of a boarding permit of any duty laid upon him by this Law or any Ordinance made thereunder;
 - (f) any pertinent resolutions of the States.
- (2) The Board must attach to every boarding permit a condition prescribing the maximum number of persons for whom the holder may provide sleeping accommodation for reward pursuant to the permit, excluding
- (a) children under the age of 10 years, and
 - (b) other persons accommodated in such circumstances as the condition may specify.

Representations and notices (1998 Amendment)

6. (1) Before taking any decision
- (a) to refuse an application for a boarding permit;
 - (b) to revoke or suspend a boarding permit; or
 - (c) to vary (otherwise than by way of removal) all the conditions of a boarding permit.

The Board shall notify the applicant for or holder of the boarding permit, as the case may be, in writing, that it is considering taking that decision, for the reasons stated in the notice, and of his rights under subsection (2) of this section.

- (2) A person to whom a notice is given under subsection (1) of this section may within 28 days make representations to the Board in writing, orally

in person, or orally by a representative, as to why the decision under consideration should not be taken; but, in the case of a decision within paragraph (b) or (c) of that subsection, if the Board is of the opinion that the public interest may require the decision to be taken sooner, the period of 28 days provided for in this subsection may be reduced to such period, not being less than 2 working days, as may be specified in the notice.

- (3) The Board must not, without the agreement of the applicant for or holder of the boarding permit concerned, take any decision within subsection (1) of this section before the expiration of the period allowed for making representations pursuant to subsection (2) of this section, and must have regard to any representations so made.
- (4) Subject to subsection (3) of this section, a decision within subsection (1) of this section takes effect when the applicant for or an holder of the boarding permit concerned is notified in writing of the decision and the reason therefore, or on such later date as may be so notified; and that notification must be given within 14 days of the date of the decision.
- (5) For the purposes of this section a working day is any day other than a Saturday, a Sunday, or a day declared by Ordinance of the States to be a public holiday.

Time for appealing (1998 Amendment)

7. An appeal shall lie to the Royal Court sitting as an Ordinary Court, which appeal must be instituted by a summons served on the President of the Board within 2 months of the date of the decision, from any refusal, revocation or suspension of a boarding permit by the Board, or from the attachment by the Board of any condition to such a permit, on any question of law or of mixed law and fact, or on the following grounds only:- (See NB 5 below, re: Transitional Timescale for Appeal).
 - (a) that the Board has in such refusal, revocation, suspension or attachment of condition, acted in a manner contrary to natural justice; or
 - (b) that in considering whether or not so to refuse, revoke, or suspend, or whether and in what respect so to attach any condition, the Board has considered matters other than those set out in Section 5 hereof or has failed to consider any of such matters.

Any decision of the Royal Court sitting as an Ordinary Court on such appeal shall be final.

Exhibiting of boarding permits

8. A copy of his current boarding permit shall be exhibited at all times by the person to whom the boarding permit is granted in the main entrance of each of the premises to which it is applicable in such manner as to bring it clearly to the notice of any person entering such premises by such entrance, and there shall be further so exhibited a copy of any condition attached to such permit which shall, by writing addressed to such person, be required to be exhibited.

Board may prescribe forms

9. The Board may from time to time prescribe forms in which applications in respect of boarding permits shall be made and may in their discretion disregard any application made otherwise than in such form.

Power of Board to inspect

10. Any member of the Board appointed in writing for that purpose by the Board or by the President of the Board on their behalf is empowered at all reasonable times to enter upon and inspect any premises in respect of which a boarding permit has been applied for or has been granted.

Inspectors (1967 and 1998 Amendments)

11. The Board may, for the purpose of carrying out their duties under this Law, appoint in writing such persons, whether or not employees of the States, as inspectors.
12. (1) Any Inspector appointed pursuant to the provisions of Section 11 of this Law is empowered, subject to the production to anyone reasonably demanding it of a document identifying him as such an inspector, at all reasonable times to enter upon and inspect any premises in respect of which a boarding permit has been granted.

- (2) Where there is a reasonable cause to believe premises in respect of which a boarding permit has not been granted are being used in contravention of the provisions of Section 3 of this Law the Board may by order in writing, signed by the President or Vice-President of the Board, authorise an Inspector appointed as aforesaid at all reasonable times within seven days from the date of the order to enter upon and inspect any premises specified in the order for the purpose of ascertaining whether such premises are being so used.

Classification and grading (1998 Amendment)

13. (a) The Board are empowered from time to time by writing addressed to the person to whom a boarding permit has been granted in respect of any premises:-
- (i) to classify those premises for the purpose of the obtaining of the grant or the renewal of a licence under the Liquor Licensing Ordinance 1993, or under any enactment amending or replacing the appropriate provisions of that Ordinance;
 - (ii) to grade and describe those premises in such manner, including the use of symbols and insignia, as the Board considers appropriate.
- (b) The Board are empowered to publish and to appose to the exterior of any such premises a plaque, which shall remain the property of the Board, indicative of, any such grading or description.
- (c) In so grading and describing any premises the Board may take into account:
- (i) the nature and condition of the accommodation provided, of the premises overall, and of their surroundings;
 - (ii) the nature and quality of the fixtures and fittings related to the accommodation;
 - (iii) the nature, quality and presentation of catering associated with the accommodation.
 - (iv) the nature and quality of the facilities offered in association with the accommodation;
 - (v) the nature and quality of the service provided;

- (vi) any minimum requirements and guidelines published by the Board in respect of the grading and description of premises.
- (d) No person to whom a boarding permit has been granted shall with intent to deceive directly or indirectly advertise or describe the premises in respect of which such permit has been granted in such a manner as might lead any person to suppose that the premises had been graded or described by the Board in a manner substantially at variance with the manner which they are so graded or described.

14. Section repealed (1998 Amendment)

Offences (1998 Amendment)

15. (a) Any person acting in contravention of Section 3 of this Law shall be guilty of a separate offence in respect of each person for whom such accommodation is provided and shall be liable on conviction.
- (i) on a first conviction to a fine not exceeding Fifty pounds;
 - (ii) on a second conviction to a fine not exceeding Two hundred pounds;
 - (iii) on a third or subsequent conviction to a fine not exceeding One thousand pounds.
- (b) Any person who with intent.
- (i) to obtain the grant of a boarding permit, or
 - (ii) to avoid the variation of any condition to a boarding permit, or
 - (iii) to avoid the revocation or suspension of a boarding permit.

Wilfully makes any statement which is false in a material particular to the Board or to any member of the Board or to an Inspector appointed under this Law or who wilfully withholds from the Board or from any such person material information shall be guilty of an offence and shall be liable on conviction to a fine not exceeding One hundred pounds or to imprisonment for a term not exceeding three months or to both such imprisonment and fine.

- (c) Any person who by way of business exhibits or publishes a sign, notice or document which:
- (i) describes as an hotel, as a guesthouse, or as self-catering accommodation, any premises in respect of which no boarding permit is for the time being in force, or
 - (ii) falsely claims or implies that a boarding permit, a boarding permit without conditions, or a boarding permit on more favourable conditions than those in fact attached, is for the time being in force in respect of any premises,

is guilty of an offence and liable on conviction to a fine not exceeding level 2 on the uniform scale, or to imprisonment for a term not exceeding 3 months, or to both.

- (d) Any person who without reasonable excuse fails to provide such information, in such form, as the Board may reasonably require about the operation of premises in respect of which a boarding permit has been granted, or who wilfully obstructs any member of the Board or any Inspector duly appointed under this Law in the exercise of the powers conferred upon him by this Law shall be guilty of an offence and shall be liable
- (i) on a first conviction to a fine not exceeding Ten pounds;
 - (ii) on a second conviction to a fine not exceeding Fifty pounds;
 - (iii) on a third or subsequent conviction to a fine not exceeding One hundred pounds or to imprisonment for one month.
- (e) Any person committing an act in contravention of this Law for which a penalty is not specifically provided shall be guilty of an offence and shall be liable on a first conviction to a fine not exceeding Ten pounds and on a second or subsequent conviction to a fine not exceeding Fifty pounds.

Where an offence for which any person is liable under this Law has been committed by an agent of that person, the agent, as well as that person, shall be deemed to be guilty of that offence and shall be liable to be punished accordingly.

Power to make Ordinance relating to camping and for other purposes of the Law

(1967 Amendment)

16. The States may, from time to time, by Ordinance, make such provision as they deem necessary or expedient for regulating or prohibiting camping or the use of sites for camping and otherwise for the purpose of carrying out the provisions of this Law.

Fees (1998 Amendment)

17. (1) The Board may from time to time by Order prescribe the fees payable by applicants for, and holder of, boarding permits.
- (2) An Order under this section may make different provision for different cases and circumstances and, without prejudice to the generality of the foregoing, may prescribe fees by reference to:
- (a) the classification and grading of the premises concerned, and
 - (b) the number of persons for whom its holder is permitted to provide sleeping accommodation for reward pursuant to the boarding permit concerned.
- (3) An Order made under this section must be laid as soon as possible before a meeting of the States and shall, if at that or their next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of a new Order.

Interpretation

18. In this Law

the expression “prescribed date” shall mean a date which the Board shall prescribe by notice inserted in the Gazette Officielle on at least three occasions the last of which occasions shall be not later than 28 days before the prescribed date;

the expression “the Islands” means the Islands of Guernsey, Herm and Jethou;

the expression “attachment of conditions” includes the variation of conditions;

the expression “vary the conditions” includes the attachment of conditions and the removal of conditions previously attached to the granting of a permit.

NB – Commencement and transitional provisions (1998 Amendment)

1. This Law was registered on the records of the Island of Guernsey on 17th November 1998, and came into effect on the first day of December 1998.
2. Section 2 of this Law shall be deemed to refer to any Resolution of the States, whether passed before or after its commencement.
3. The amendment made to section 3 of this Law shall not have the effect of rendering unlawful the accommodation for reward of one person only pursuant to an agreement entered into before the commencement of this Law.
4. Any Boarding Permit in force at the commencement of this Law shall continue to have effect, unless previously revoked or suspended, until 31st March in the following year.
5. The Amendment made to section 7 of this Law shall apply as respects any decision taken before its commencement as if the reference to the date of the decision were to the date of the commencement of this Law.
6. The repeals of the Boarding Permit Fees Ordinance shall take effect on the coming into force of the first Order made by the Board under section 17 of the Law. (Note: The first Order was placed before the States at its February meeting, increasing the fees for Boarding Permits as at the 1st April 1999).
7. The principal and amending Laws may be cited together as the Tourist (Guernsey) Laws, 1948 to 1998.