1960 No. 208

The Defence (General) (Guernsey) Regulations Continuance Order, 1960

Made - - - - 8*th February*, 1960
Coming into Operation 24*th March*, 1960

At the Court at Buckingham Palace, the 8th day of February, 1960

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of subsection (2) of section nine of the Emergency Laws (Repeal) Act, 1959(a), and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows :—

1.—(1) This Order may be cited as the Defence (General) (Guernsey) Regulations Continuance Order, 1960, and shall come into operation on the twenty-fourth day of March, 1960.

(2) In this Order the expression "Bailiwick of Guernsey" includes the territorial waters adjacent thereto, and the expression "States" means the States of Guernsey.

(3) The Interpretation Act, 1889(b), shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of that Act (which relates to the effect of repeals) this Order shall be deemed to be an Act of Parliament.

2.—(1) Subject to the provisions of this Order, the following provisions of the Defence (General) (Guernsey) Regulations, 1945, as they had effect immediately before the commencement of this Order, that is to say—

(*a*) in Part IV, Regulation 55 (general control of industry);

(*b*) so far as applicable to the aforesaid Regulation, Part V (which contains general and supplementary provisions) except Regulations 85 and 93,

shall continue in force throughout the Bailiwick of Guernsey so long as this Order remains in force.

(2) Those of the Regulations aforesaid specified in the First Schedule to this Order shall have effect by virtue of this Article subject to the amendments respectively specified in relation thereto in that Schedule; and notwithstanding any Ordinance in force immediately before the commencement of this Order under section three of the Supplies and Services (Transitional Powers) Act, 1945(c), as extended to the Bailiwick of Guernsey by the Supplies and Services (Transitional Powers) (Guernsey) Order in Council, 1946(d), the powers conferred by paragraph (1) of the said Regulation 55

(a) 7 & 8 Eliz. 2. c. 19. (b) 52 & 53 Vict. c. 63.
(c) 9 & 10 Geo. 6. c. 10. (d) S.R. & O. 1946/32 (1946 II, p. 1529).

shall not be exercisable except for the purposes of such an order as is authorised by that paragraph as amended by paragraph 1 of the said First Schedule, but shall be exercisable for the purposes of any such order.

(3) The Regulations referred to in paragraph (1) of this Article shall be in force by virtue of this Article in the form set out in the Second Schedule to this Order, being a form reproducing those Regulations as they have effect by virtue of the two foregoing paragraphs.

(4) Nothing in paragraph (2) of this Article shall affect the validity of any order under the aforesaid Regulation 55 in force immediately before the commencement of this Order; but nothing in Regulation 98 of the Defence (General) (Guernsey) Regulations, 1945, shall authorise the variation, otherwise than by revocation in whole or in part, of any provision of any such order which could not be included in an order made under the Regulation in question after the commencement of this Order.

(5) After the commencement of this Order, no order shall be made wholly or partly by virtue of sub-paragraph (*d*) of paragraph (1) of Regulation 55 as amended by paragraph 1 of the First Schedule to this Order unless a draft of the order has been laid before and approved by the States; and any other order made under the aforesaid Regulation 55 shall be subject to annulment by the States.

(6) The Third Schedule to this Order, which reproduces with modifications the effect of the following provisions of the Emergency Powers (Defence) Act, 1939(**a**), as extended to the Bailiwick of Guernsey by the Emergency Powers (Guernsey) Order in Council, 1945(**b**), so far as applicable to any Regulation or order having effect by virtue of this Article, that is to say, subsection (4) of section one, section three and section seven, shall have effect for the purposes of any such Regulation or order for the time being in force.

(7) Without prejudice to Regulation 99B of the Defence (General) (Guernsey) Regulations, 1945, as amended by paragraph 7 of the First Schedule to this Order, any Defence Regulation or order thereunder which, without having been expressly revoked, ceases to have effect by virtue of the Emergency Laws (Repeal) Act, 1959, or which is revoked under that Act shall be deemed for the purposes of section thirty-eight of the Interpretation Act, 1889, to have been repealed by an Act of Parliament.

3. The provisions of this Order shall continue in force only until the expiration of the thirty-first day of December, 1964, and shall then expire; and subsection (2) of section thirty-eight of the Interpretation Act, 1889, shall apply on the expiration of those provisions as if those provisions had then been repealed.

W. G. Agnew.

(**a**) 2 & 3 Geo. 6. c. 62. (**b**) S.R. & O. 1945/1003 (1945 II, p. 1522).

SCHEDULES

FIRST SCHEDULE Article 2 (2)

AMENDMENTS IN DEFENCE (GENERAL) (GUERNSEY) REGULATIONS, 1945

PART IV

1. For sub-paragraphs (*a*) and (*e*) of paragraph (1) of Regulation 55 and for so much of that paragraph as precedes those sub-paragraphs there shall be substituted the following:—

"(1) A competent authority may by order provide—

(*a*) for imposing in respect of the movement, transport, disposal or acquisition of any article situated outside the Bailiwick of Guernsey, or in respect of the re-export of any article from the Bailiwick of Guernsey, or in respect of the construction of ships, such prohibitions or restrictions as appear to the competent authority to be expedient having regard to any agreement or arrangement concluded in respect of defence matters, or any consultations held in respect of such matters, between Her Majesty's Government in the United Kingdom and the government of any country outside the United Kingdom;

(*b*) for imposing in respect of the disposal, acquisition or possession of articles of any description under hire-purchase agreements or credit-sale agreements, or under agreements for letting on hire, such prohibitions or restrictions as appear to the competent authority to be required for restricting excessive credit;

(*c*) for regulating or prohibiting, so far as appears to the competent authority to be required having regard to any scheme administered by any government department for the provision of any welfare food—

(i) the acquisition, treatment, keeping, storage, transport, distribution, disposal, use or consumption of any welfare food other than liquid milk;

(ii) the disposal, use or consumption of liquid milk;

(*d*) where it appears to the competent authority, and is so declared in the order, that a shortage of articles of any description essential to the well-being of the community or to national defence, being a shortage such as to threaten that well-being or defence, has arisen or is expected as the result of measures taken by the government of any country outside the Bailiwick of Guernsey or as the result of other special circumstances arising in any such country, for regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of any articles of that description or of any substitute for any such article;

(*e*) for controlling the prices to be charged for any of the following goods, that is to say:—

(i) liquid milk;

(ii) any other welfare food in relation to which an order under this Regulation is for the time being in force;

(iii) medical supplies;

(iv) goods in relation to which an order under this Regulation made wholly or partly by virtue of sub-paragraph (*d*) of this paragraph is for the time being in force;

(*f*) for any incidental and supplementary matters for which the competent authority thinks it expedient for the purposes of the order to provide;".

2. In paragraph (1F) of Regulation 55, after the word "shall" in the first place where that word occurs, there shall be inserted the words "in the case of an order made wholly or partly by virtue of sub-paragraph (*d*) or (*e*) (iv) of that paragraph".

3. In paragraph (6) of Regulation 55, in the sub-paragraph commencing "breach of the control", for the words from "any provision" onwards there shall be substituted the words "any provision of any order under this Regulation for the time being in force, being a provision such as is mentioned in any of sub-paragraphs (*a*) to (*e*) of paragraph (1) of this Regulation"; and after the sub-paragraph commencing as aforesaid there shall be inserted the following:—

"'credit-sale agreement' means an agreement for the sale of goods in which the whole or part of the purchase price is payable by instalments, whether the agreement is absolute or conditional;

"hire-purchase agreement" means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, whether on the performance of any act by the parties to the agreement or any of them or in any other circumstances;

"medical supplies" includes surgical, dental and optical materials and equipment;";

in the sub-paragraph commencing "undertaking" the words "and the expression 'undertakers' shall be construed accordingly" shall be omitted; and after the said sub-paragraph there shall be inserted the following sub-paragraph:—

"'welfare food' means liquid milk, dried milk, concentrated orange juice, cod liver oil or vitamin tablets;".

PART V

4. In Regulation 83, there shall be added at the end the words "and any person who contravenes this Regulation shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.".

5. For Regulation 91 there shall be substituted the following:—

"91.—(1) Where an offence under any of these Regulations 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 shall be liable to be proceeded against and punished accordingly.

(2) In this Regulation, the expression "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.".

6. Paragraph (3) of Regulation 92 shall be omitted.

7. For Regulation 99B there shall be substituted the following:—

"99B. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations and any order made thereunder as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the Interpretation Act, 1889, these Regulations and any order made thereunder shall be deemed to be an Act of Parliament.".

8. For paragraph (1) of Regulation 100 there shall be substituted the following:—

"(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Act" means any Act of the Imperial Parliament, any Order of Her Majesty in Council, any enactment passed by the legislative assembly of any Island of the Bailiwick of Guernsey and confirmed by Her Majesty in Council and any Ordinance (Ordonnance) passed by the Royal Court of Guernsey, the Court of Alderney, the States of Guernsey, the States

of Alderney, the Chief Pleas of Sark or the States Legislation Committee and in each such case whether made or passed before or after the commencement of these Regulations;

"competent authority" means, in relation to any Defence Regulation, such person as the States Advisory and Finance Committee may by order designate as a competent authority in relation to that Regulation with or without limitation of the powers of such an authority as therein prescribed;

"government department" means any department, as regards Guernsey, of the States of Guernsey, as regards Alderney, of the States of Alderney and, as regards Sark, of the Chief Pleas of Sark;

"public utility undertaking" means any of the following undertakings the carrying on of which is authorised by any Act, that is to say:—

(*a*) any undertaking for the supply of electricity, gas or water;

(*b*) any tramway, road transport, water transport, dock, harbour, pier or lighthouse undertaking;

(*c*) any sewerage or sewage disposal undertaking or any undertaking for the collection or disposal of refuse;

(*d*) any drainage undertaking;

"ship" and "vessel" have respectively the same meanings as in the Merchant Shipping Act, 1894".

9. In Regulation 100 paragraphs (2), (5) and (7) shall be omitted, and in paragraph (8) for the words "Channel Islands, their territorial waters" there shall be substituted the words "Bailiwick of Guernsey".

SECOND SCHEDULE Article 2 (3)

Form in which Defence Regulations Continue in Force by Virtue of Article 2

Defence (General) (Guernsey) Regulations, 1945

Part IV—Essential Supplies and Work

General control of industry

55.—(1) A competent authority may by order provide—

(*a*) for imposing in respect of the movement, transport, disposal or acquisition of any article situated outside the Bailiwick of Guernsey, or in respect of the re-export of any article from the Bailiwick of Guernsey, or in respect of the construction of ships, such prohibitions or restrictions as appear to the competent authority to be expedient having regard to any agreement or arrangement concluded in respect of defence matters, or any consultations held in respect of such matters, between Her Majesty's Government in the United Kingdom and the government of any country outside the United Kingdom;

(*b*) for imposing in respect of the disposal, acquisition or possession of articles of any description under hire-purchase agreements or credit-sale agreements, or under agreements for letting on hire, such prohibitions or restrictions as appear to the competent authority to be required for restricting excessive credit;

(*c*) for regulating or prohibiting, so far as appears to the competent authority to be required having regard to any scheme administered by any government department for the provision of any welfare food—

(i) the acquisition, treatment, keeping, storage, transport, distribution, disposal, use or consumption of any welfare food other than liquid milk;

(ii) the disposal, use or consumption of liquid milk;

(*d*) where it appears to the competent authority, and is so declared in the order, that a shortage of articles of any description essential to the well-being of the community or to national defence, being a shortage such as to threaten that well-being or defence, has arisen or is expected as the result of measures taken by the government of any country outside the Bailiwick of Guernsey or as the result of other special circumstances arising in any such country, for regulating or prohibiting the production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, use or consumption of any articles of that description or of any substitute for any such article;

(*e*) for controlling the prices to be charged for any of the following goods, that is to say:—

(i) liquid milk;

(ii) any other welfare food in relation to which an order under this Regulation is for the time being in force;

(iii) medical supplies;

(iv) goods in relation to which an order under this Regulation made wholly or partly by virtue of sub-paragraph (*d*) of this paragraph is for the time being in force;

(*f*) for any incidental and supplementary matters for which the competent authority thinks it expedient for the purposes of the order to provide;

and also make such provision (including provision for requiring any person to furnish any information) as the competent authority thinks necessary or expedient for facilitating the introduction or operation of a scheme of control for which provision has been made, or for which, in the opinion of the competent authority, it will or may be found necessary or expedient that provision should be made, under this Regulation; and an order under this Regulation may prohibit the doing of anything regulated by the order except under the authority of a licence granted by such authority or person as may be specified in the order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and so as to have effect either generally or in any particular area.

(1C) Any person who receives a commission in respect of a transaction which, or part of which, constitutes a breach of the control shall be guilty of an offence against this Regulation, unless he proves that he did not know and had no reason to believe that the transaction or any part thereof constituted such a breach.

In this paragraph the expression "commission" includes any valuable consideration in the nature of a commission, whether computed on a percentage basis or otherwise.

(1F) The powers conferred by paragraph (1) of this Regulation shall, in the case of an order made wholly or partly by virtue of sub-paragraph (*d*) or (*e*) (iv) of that paragraph, extend to the making of an order—

(*a*) providing for the seizure and, if thought desirable, the sale of any article in respect of which an offence against this Regulation, being a breach of the control, is believed to have been committed;

(*b*) enabling the court by or before whom a person is convicted of any such offence in respect of the article, if satisfied that he was the owner of the article at the time of the seizure, to direct that the whole or part of the proceeds of the sale of the article shall be applied in or towards the satisfaction of any fine imposed on that person for that offence; and

(*c*) providing, subject as aforesaid, for the return of the article or, as the case may be, of the proceeds of the sale thereof to such person as may prove that he was the owner of the article at the time of the seizure.

(6) In this Regulation the following expressions have the meanings hereby respectively assigned to them:—

"breach of the control" means any offence against this Regulation constituted by a contravention of or failure to comply with any provision of any

order under this Regulation for the time being in force, being a provision such as is mentioned in any of sub-paragraphs (*a*) to (*e*) of paragraph (1) of this Regulation;

"credit-sale agreement" means an agreement for the sale of goods in which the whole or part of the purchase price is payable by instalments, whether the agreement is absolute or conditional;

"hire-purchase agreement" means an agreement for the bailment of goods under which the bailee may buy the goods or under which the property in the goods will or may pass to the bailee, whether on the performance of any act by the parties to the agreement or any of them or in any other circumstances;

"medical supplies" includes surgical, dental and optical materials and equipment;

"undertaking" means any public utility undertaking or any undertaking by way of any trade or business;

"welfare food" means liquid milk, dried milk, concentrated orange juice, cod liver oil or vitamin tablets;

and any reference in this Regulation to articles shall be construed as including a reference to substances, vehicles, vessels or animals.

Part V—General and Supplementary Provisions

False documents and false statements

82.—(1) If, with intent to deceive, any person—

(*a*) forges or uses, or lends to or allows to be used by any other person, any document issued for the purposes of any of these Regulations or of any order made under any of these Regulations; or

(*b*) makes or has in his possession any document so closely resembling such a document as aforesaid as to be calculated to deceive; or

(*c*) produces, furnishes, sends or otherwise makes use of, for the purposes aforesaid, any book, account, estimate, return, declaration or other document which is false in a material particular,

he shall be guilty of an offence against that Regulation.

(2) If, in furnishing any information for the purposes of any of these Regulations or of any order made under any of these Regulations, any person makes any statement which he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence against that Regulation.

Obstruction

83. No person shall wilfully obstruct any person exercising any powers, or performing any duties, conferred or imposed on him by or under any of these Regulations; and any person who contravenes this Regulation shall be liable on conviction to imprisonment for a term not exceeding three months or to a fine not exceeding fifty pounds, or to both such imprisonment and such fine.

Restrictions on disclosing information

84. No person who obtains any information by virtue of these Regulations shall, otherwise than in connection with the execution of these Regulations or of an order made under these Regulations, disclose that information except with permission granted by or on behalf of the competent authority.

Permits, licences, etc.

87.—(3) Any permit, licence, permission or authorisation granted for the purposes of any of these Regulations may be revoked at any time by the authority or person empowered to grant it.

Offences by corporations

91.—(1) Where an offence under any of these Regulations 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 shall be liable to be proceeded against and punished accordingly.

(2) In this Regulation, the expression "director", in relation to a body corporate established by or under any enactment for the purpose of carrying on under national ownership any industry or part of an industry or undertaking, being a body corporate whose affairs are managed by its members, means a member of that body corporate.

Penalties

92.—(1) If any person contravenes or fails to comply with any of these Regulations, or any order made under any of these Regulations, or any direction given or requirement imposed under any of these Regulations or under any order made under any of these Regulations, he shall, save as otherwise expressly provided by or under that Regulation, be guilty of an offence against that Regulation; and, subject to any special provisions contained in these Regulations, a person guilty of an offence against any of these Regulations shall, on conviction, be liable to imprisonment for a term not exceeding two years or to a fine not exceeding five hundred pounds, or to both such imprisonment and such fine.

(2) Where a person convicted of an offence against any of these Regulations is a body corporate, no provision in these Regulations limiting the amount of the fine which may be imposed shall apply, and the body corporate shall be liable to a fine of such amount as the court thinks just.

Service of notices

97. Without prejudice to any special provisions contained in these Regulations, or in any order made thereunder, a notice to be served on any person for the purposes of any of these Regulations or any order made thereunder may be served by sending it by post in a letter addressed to that person at his last or usual place of abode or place of business.

Revocation and variation of orders, etc.

98. Any power conferred by any of these Regulations to make any order, rule or direction shall be construed as including a power, exercisable in the like manner and subject to the like conditions, if any, to rescind, revoke, amend or vary the order, rule or direction.

Application of Interpretation Act, 1889, to Defence Regulations, etc.

99B. The Interpretation Act, 1889, shall apply to the interpretation of these Regulations and any order made thereunder as it applies to the interpretation of an Act of Parliament, and for the purposes of section thirty-eight of the Interpretation Act, 1889, these Regulations and any order made thereunder shall be deemed to be an Act of Parliament.

Interpretation

100.—(1) In these Regulations, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Act" means any Act of the Imperial Parliament, any Order of Her Majesty in Council, any enactment passed by the legislative assembly of any Island of the Bailiwick of Guernsey and confirmed by Her Majesty in Council and any

Ordinance (Ordonnance) passed by the Royal Court of Guernsey, the Court of Alderney, the States of Guernsey, the States of Alderney, the Chief Pleas of Sark or the States Legislation Committee and in each such case whether made or passed before or after the commencement of these Regulations;

"competent authority" means, in relation to any Defence Regulation, such person as the States Advisory and Finance Committee may by order designate as a competent authority in relation to that Regulation with or without limitation of the powers of such an authority as therein prescribed;

"government department" means any department, as regards Guernsey, of the States of Guernsey, as regards Alderney, of the States of Alderney and, as regards Sark, of the Chief Pleas of Sark;

"public utility undertaking" means any of the following undertakings the carrying on of which is authorised by any Act, that is to say:—

(*a*) any undertaking for the supply of electricity, gas or water;

(*b*) any tramway, road transport, water transport, dock, harbour, pier or lighthouse undertaking;

(*c*) any sewerage or sewage disposal undertaking or any undertaking for the collection or disposal of refuse;

(*d*) any drainage undertaking;

"ship" and "vessel" have respectively the same meanings as in the Merchant Shipping Act, 1894(a).

(3) Where, under any of these Regulations, any person has power to authorise other persons to act under that Regulation, the power may be exercised so as to confer the authority either on particular persons or on a specified class of persons.

(8) Any reference in these Regulations to any provision of an Act of the Imperial Parliament shall be construed as including a reference to any adaptation of such provision of such Act for the time being in force in the Bailiwick of Guernsey or any part thereof.

THIRD SCHEDULE Article 2 (6)

Supplementary Provisions with Respect to Defence Regulations

1. Any order duly made in pursuance of any Defence Regulation continued in force by virtue of Article 2 of this Order shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Order or in any instrument having effect by virtue of any enactment other than this Order.

2. Unless the contrary intention appears therefrom, any provisions contained in, or having effect under, any such Regulation as aforesaid shall—

(*a*) in so far as they specifically impose prohibitions or obligations in relation to vessels or aircraft, apply to all vessels or aircraft in or over the Bailiwick of Guernsey and to all British ships or aircraft, not being excepted ships or aircraft, wherever they may be;

(*b*) in so far as they impose prohibitions, restrictions or obligations on persons, apply, subject to the foregoing sub-paragraph, to all persons in the Bailiwick of Guernsey and all persons on board any British ship or aircraft, not being an excepted ship or aircraft, and to all other persons, wherever they may be, who are citizens of the United Kingdom, Islands and Colonies or British protected persons and who are ordinarily resident in the Bailiwick of Guernsey.

3. In the last foregoing paragraph—

"British aircraft" means an aircraft registered in—

(*a*) any part of Her Majesty's dominions;

(*b*) any country outside Her Majesty's dominions in which for the time being Her Majesty has jurisdiction;

(a) 57 & 58 Vict. c. 60.

(c) any country consisting partly of one or more colonies and partly of one or more such countries as are mentioned in the last foregoing sub-paragraph;

"British protected person" has the same meaning as in the British Nationality Acts, 1948 and 1958;

"excepted ship or aircraft" means a ship or aircraft registered in Canada, Australia, New Zealand, the Union of South Africa, the Republic of Ireland, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana or the Federation of Malaya, or in any territory administered by the government of any of the countries aforesaid, not being a ship or aircraft for the time being placed at the disposal of, or chartered by or on behalf of, Her Majesty's Government in the United Kingdom.

4. Every document purporting to be an instrument made or issued by any Committee of the States of Guernsey or other authority or person in pursuance of any provision contained in, or having effect under, any such Regulation as aforesaid, and to be signed by or on behalf of that Committee, authority or person, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by that Committee, authority or person; and prima facie evidence of any such instrument as aforesaid may, in any legal proceedings (including arbitrations), be given by the production of a document purporting to be certified to be a true copy of the instrument by or on behalf of the Committee or other authority or person having power to make or issue the instrument.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

This Order provides that certain provisions of the Defence (General) (Guernsey) Regulations, 1945, shall continue in force in the Bailiwick of Guernsey until 31st December, 1964, in the form in which the corresponding provisions of the Defence (General) Regulations, 1939, were continued in force for the United Kingdom until that date by the Emergency Laws (Repeal) Act, 1959.