STATUTORY INSTRUMENTS

2011 No. 2444

IMMIGRATION

The Immigration (Guernsey) Order 2011

Made   -   -   -   -   12th October 2011

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 12th day of October 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of the powers conferred upon Her by section 63(3) of the Immigration, Asylum and Nationality Act 2006(**1**) and section 170(7) of the Immigration and Asylum Act 1999(**2**), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and interpretation

1. This Order may be cited as the Immigration (Guernsey) Order 2011 and shall come into force seven days after the day on which it is registered by the Royal Court of Guernsey.

2. In this Order—

"the 1971 Act" means the Immigration Act 1971(**3**);

"the 1999 Act" means the Immigration and Asylum Act 1999; and

"Guernsey" means the Bailiwick of Guernsey.

3. For the purposes of construing provisions of the 1971 Act as part of the law of Guernsey, any reference to an enactment which extends to Guernsey shall be construed as a reference to that enactment as it has effect in Guernsey.

Extension and modification

4. Sections 31, 32, 34 and 39 of the Immigration, Asylum and Nationality Act 2006 shall extend to Guernsey subject to the exceptions and modifications specified in the right-hand column of Schedule 1.

(**1**) 2006 c. 13. By virtue of section 63(3A), inserted by section 54(7) of the Police and Justice Act 2006 (c.48), the power in section 63(3) to extend 2006 c.13 to territories covered by it includes both extension with the amendments and repeals made by 2006 c.48 and extension without those amendments and repeals.

(**2**) 1999 c. 33.

(**3**) 1971 c. 77.

5. Section 166 of the 1999 Act(**4**) shall extend to Guernsey subject to the exceptions and modifications specified in the right-hand column of Schedule 2.

6. Section 18 of the 1999 Act(**5**) shall be modified in its extension to Guernsey as specified in Schedule 3.

Judith Simpson
Clerk of the Privy Council

(**4**)   Section 166 has been amended, but the amendments are not relevant to this Order.
(**5**)   Section 18 of the 1999 Act was previously extended with modifications to Guernsey by S.I. 2003/2900.

SCHEDULE 1   Article 4

Exceptions and modifications of sections 31, 32, 34 and 39 of the
Immigration, Asylum and Nationality Act 2006 as they extend to Guernsey

Provision	*Exceptions and Modifications*

Section 31
 	
(provision of information to immigration officers)**(6)**
 	
(amending paragraphs 27 and 27B of Schedule 2 to and section 27 of the 1971 Act)
	(a) for "United Kingdom" in each place it occurs, substitute "Bailiwick of Guernsey";
	(b) in subsection (2)—
	   (i) in the substituted subparagraph (2), for "Secretary of State may by order require" substitute "Lieutenant-Governor may by directions require";
	   (ii) in the substituted subparagraphs (3) and (5), for "An order" substitute "Directions";
	   (iii) at the end of the substituted subparagraph (5)(b) insert "and";
	   (iv) for the substituted subparagraph 5(c), substitute "may require information to be provided to the immigration officer or as the immigration officer directs."; and
	   (v) omit the substituted subparagraph (5)(d); and
	(c) in subsection (3), in the inserted subparagraph (9A), after the words "may be specified" insert "by the Lieutenant-Governor".

Section 32 (passenger and crew information: police powers)	(a) for "Secretary of State", in each place it occurs, substitute "Lieutenant-Governor"; (b) in subsection (1)(a), for "in the United Kingdom" substitute "at any place in the Bailiwick of Guernsey (whether from a place in the Bailiwick of Guernsey or from outside the Bailiwick of Guernsey)"; (c) in subsection (1)(b) for "the United Kingdom" substitute "from any place in the Bailiwick of Guernsey (whether for a place in the Bailiwick of Guernsey or for outside the Bailiwick of Guernsey)"; (d) in subsection (2) for "constable of the rank of superintendent or above" substitute "police officer of the rank of chief inspector or above"; (e) for subsection (4) substitute— "(4) A police officer may impose a requirement under subsection (2) only if he thinks it necessary for police purposes."; (f) for subsection 5(b) substitute—

(**6**)   Section 31amends paragraphs 27 and 27B of Schedule 2 to the Immigration Act 1971 (c. 77). Paragraph 27 was extended to Guernsey, with exceptions and modifications, by the Immigration (Guernsey) Order 1993 (S.I. 1993/1796). Paragraph 27B was extended to Guernsey, with exceptions and modifications, by the Immigration and Asylum Act 1999 (Guernsey) Order 2003 (S.I. 2003/2900).

Provision	Exceptions and Modifications
	"(b) "police purposes" means any of the following– (i) the prevention, detection, investigation or prosecution of criminal offences; (ii) safeguarding national security; or (iii) such other purposes as may be specified by order of the States Home Department,"; (g) for subsection (5)(c) substitute— "(c) "police officer" means a member of the salaried Police Force of the Island of Guernsey, and (d) "ship" includes— (i) every description of vessel used in navigation, and (ii) hovercraft."; (h) in subsection (7) for "(within the meaning of the Human Rights Act 1998 (c 42))" substitute "(within the meaning of the Human Rights (Bailiwick of Guernsey) Law, 2000)"; and (i) in subsection 8— (i) at end of paragraph (b) insert "and"; (ii) at the end of subsection 8(c) for "," substitute "."; and (iii) omit subsections (8)(d) and (e).
Section 34 (offence)	(a) in subsection (1) omit "or 33(2)"; (b) omit subsection (2); (c) in subsection (3)— (i) for paragraph (a) substitute— "(a) imprisonment for a term not exceeding a year,"; and (ii) in paragraph (b), for "standard" substitute "uniform"; and (d) for subsection (4) substitute— "(4) In subsection (3) the reference to the uniform scale means the scale of fines designated by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989.".
Section 39 (disclosure to law enforcement agencies)	(a) in subsection (1)— (i) for "A chief officer of police" substitute "The chief officer of the salaried Police Force of the Island of Guernsey"; and (ii) omit "or 33"; (b) for subsection (1)(b) substitute—

Provision	Exceptions and Modifications
	"(b) a police force in the United Kingdom;"; (c) in subsection (2) for "the United Kingdom" in, each place it occurs, substitute "the British Islands"; and (d) omit subsection (3).

SCHEDULE 2

Article 5

Exceptions and modifications of section 166 of the
Immigration and Asylum Act 1999(**7**) as it extends to Guernsey

Provision	Exceptions and Modifications
Section 166 (regulations and orders)	(a) omit subsections (1) and (2); (b) in subsection (3), for the words "statutory instrument made as a result of subsection (1)" substitute "direction or order made under this Act"; and (c) omit subsections (4), (5) and (6).

SCHEDULE 3

Article 6

Modification of section 18 of the Immigration and Asylum Act 1999(**8**) as it extends to Guernsey

1. In section 18 of the 1999 Act (passenger information), in the inserted paragraph 27B(2), after "that information to the officer" insert "or as the officer directs".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order extends to Guernsey, with exceptions and modifications, sections 31, 32, 34 and 39 of the Immigration, Asylum and Nationality Act 2006 (c.13) and section 166 of the Immigration and Asylum Act 1999 (c.33). It also further modifies section 18 of the Immigration and Asylum Act 1999 which was previously extended to Guernsey with modifications by the Immigration and Asylum Act (Guernsey) Order 2003 (SI 2003/2900).

(**7**)   1999 c.33
(**8**)   Section 18 of the 1999 Act was previously extended with exceptions and modifications to Guernsey by S.I. 2003/2900.