

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Health and Safety at Work (General) (Guernsey) Ordinance, 1987 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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 XXIV, p. 162; as amended by the Transfer of Functions Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 328); the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012 (No. LII of 2012); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). This Ordinance is applied, in part, to persons at work within the territorial waters of Guernsey by the Renewable Energy (Guernsey) Law, 2010 (No. XIV of 2011). See also the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Health and Safety (Gas) (Guernsey) Ordinance, 2006 (No. XIV of 2006); the Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1987 (G.S.I. No. 37 of 1987); the Health and Safety at Work (Highly Flammable Liquids) (Guernsey) Regulations, 1988 (G.S.I. No. 10 of 1988); the Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1995 (G.S.I. No. 9 of 1995); the Control of Poisonous Substances (Guernsey) Regulations, 2014 (G.S.I. No. 18 of 2014); the Health and Safety (Fees) Order, 2015 (G.S.I. No. 2 of 2015); the Resolution of the States of Guernsey of 24th April, 1991 (Billet XI, proposition 1(4)); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (*supra*); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (*supra*).

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ARRANGEMENT OF SECTIONS

PART I

GENERAL DUTIES OF EMPLOYERS, EMPLOYEES AND OTHERS

1. General duties of employers to their employees.
2. General duties of employers and self-employed to persons other than their employees.
3. General duties of persons concerned with premises to persons other than their employees.
4. General duty of persons in control of certain premises in relation to harmful emissions into atmosphere.
5. General duties of manufacturers etc. as regards articles and substances for use at work.
6. General duties of employees at work.
7. Duty not to interfere with or misuse things provided pursuant to certain provisions.
8. Duty not to charge employees for things done or provided pursuant to certain specific requirements.
9. Notification and reporting of injuries, diseases and dangerous occurrences.
10. Records.
11. Restrictions as to the application of section 9.
12. Power of the Committee to direct investigations.

PART II

APPROVED CODES OF PRACTICE

13. Approval of codes of practice by the Committee.
14. Use of approved codes of practice in criminal proceedings.

PART III

ENFORCEMENT, ETC.

15. Appointment of inspectors.
16. Powers of inspectors.
17. Provisions as to samples.
18. Improvement notices.
19. Prohibition notices.

20. Provisions supplementary to section 18 and section 19.
21. Appeal against improvement or prohibition notice.
22. Power to deal with cause of imminent danger.
23. Obtaining of information by the Committee.
24. Restrictions on disclosure of information.

PART IV
PROVISIONS AS TO OFFENCES

25. Offences.
26. Offences due to fault of other person.
27. Offences by bodies corporate.
28. Onus of proving limits of what is practicable, etc.
29. Power of court to order cause of offence to be remedied.

PART V
MISCELLANEOUS AND GENERAL

30. Appeals in connection with licensing provisions in the relevant statutory provisions.
31. Service of notices.
32. Civil liability.
33. Exclusion of application to domestic employment.
34. Repeals.
35. Interpretation.
36. Power to make Regulations.
37. Transfer of certain functions to the Committee.
38. Extent.
39. Citation and commencement.

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| SCHEDULE 1 | Records. |
| Part I | Particulars to be Kept in Records of any Event which is Reportable under Section 9. |
| Part II | Particulars to be Kept in Records of Instances of any Diseases Reportable under Section 9(5). |
| Part III | Additional Provisions Relating to Quarries. |
| Part IV | Matters which the Committee may Require to be Notified. |
| SCHEDULE 2 | Dangerous Occurrences. |
| Part I | General. |
| Part II | Dangerous Occurrences which are Reportable in relation to Quarries. |
| SCHEDULE 3 | Ordinances under Law of 1950 Continued in Force. |
| SCHEDULE 4 | Enactments to be Regarded as Relevant Statutory Provisions. |
| SCHEDULE 5 | Amendments. |

(Made on 28th October, 1987.)

The Health and Safety at Work (General) (Guernsey) Ordinance, 1987

THE STATES, in pursuance of their Resolution of the 31st day of July, 1985, and in exercise of the powers conferred upon them by section 3(1) of the Health and Safety at Work etc. (Guernsey) Law, 1979^a, and section 2 of the Health, Safety and Welfare of Employees Law, 1950^b and of all other powers enabling them in that behalf, hereby order: –

PART I

GENERAL DUTIES OF EMPLOYERS, EMPLOYEES AND OTHERS

General duties of employers to their employees.

1. (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.

(2) Without prejudice to the generality of an employer's duty under subsection (1) above, the matters to which that duty extends include in particular –

- (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health,
- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health, in connection with the use, handling, storage and transport of articles and substances,
- (c) the provision of such information, instruction, training

^a Ordre en Conseil No. X of 1979.

^b Ordre en Conseil Vol. XIV, p. 312.

and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of his employees,

- (d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of means of access to and egress from it that are safe and without such risks,
- (e) the provision and maintenance of a working environment for his employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.

(3) Except in such cases as may be prescribed, it shall be the duty of every employer to prepare and as often as may be appropriate, revise a written statement of his general policy with respect to the health and safety at work of his employees and the organisation and arrangements for the time being in force for carrying out that policy, and to bring the statement and any revision of it to the notice of all of his employees.

(4) Subsection (3) above shall have effect for imposing duties in relation to –

- (a) where 5 or more persons are employed, and
- (b) where less than 5 persons are employed, in such cases as shall be prescribed.

NOTES

The following cases have referred to this Law:

Stone v. Hickman 2007–08 GLR N-23;

Buckley v. Ronez Ltd. (2010) (Unreported, Royal Court, 19th January) (Guernsey Judgment No 4/2009).

In accordance with the provisions of the Health and Safety (Gas) (Guernsey) Ordinance, 2006, section 2(1)(a), with effect from 1st June, 2006, the provisions of this Ordinance shall be read as one with the provisions of that 2006 Ordinance.

In accordance with the provisions of the Renewable Energy (Guernsey) Law, 2010, section 5(1), with effect from 30th May, 2012 and subject to subsection (3) of that section, this Ordinance shall apply to and in relation to persons at work (within the meaning of the Health and Safety at Work etc. (Guernsey) Law, 1979) within the territorial waters of Guernsey where such work is carried on in connection with the activities as set out in the said section 5.

In accordance with the provisions of the Health and Safety (Fees) Order, 2015, the fees payable for the provision of the services or documents therein referred to under or for the purposes of this Ordinance and any subordinate legislation made hereunder are as contained in article 5 thereof.

General duties of employers and self-employed to persons other than their employees.

2. (1) It shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety.

(2) It shall be the duty of every self-employed person to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that he and other persons (not being his employees) who may be affected thereby are not thereby exposed to risks to their health or safety.

(3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his employees) who may be affected by the way in which he conducts his undertaking the prescribed information about such aspects of the way in which he conducts his undertaking as might affect their health or safety.

General duties of persons concerned with premises to persons other than their employees.

3. (1) This section has effect for imposing on persons duties in

relation to those who –

- (a) are not their employees, but
- (b) use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there,

and applies to premises so made available and other non-domestic premises used in connection with them.

(2) It shall be the duty of each person who has, to any extent, control of premises to which this section applies, or of the means of access thereto or egress therefrom, or of any plant or substance in such premises, to take such measures as it is reasonable for a person in his position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

(3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to –

- (a) the maintenance or repair of any premises to which this section applies or any means of access thereto or egress therefrom, or
- (b) the safety of or the absence of risks to health arising from plant or substances in any such premises,

that person shall be treated, for the purposes of subsection (2) above, as being a person who has control of the matters to which his obligation extends.

(4) Any reference in this section to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by him of a trade, business or other

undertaking (whether for profit or not).

General duty of persons in control of certain premises in relation to harmful emissions into atmosphere.

4. (1) This section applies to the following premises, that is to say –

- (a) any factory, growing property or quarry, and
- (b) any premises at which there is installed any plant capable of producing or emitting ionising radiations.

(2) It shall be the duty of the person having control of any premises to which this section applies to use the best practicable means for preventing the emission into the atmosphere from the premises of noxious or offensive substances and for rendering harmless and inoffensive such substances as may be so emitted.

(3) The reference in subsection (2) above to the means to be used for the purposes there mentioned includes a reference to the manner in which the plant provided for those purposes is used and to the supervision of any operation involving the emission of the substances to which that subsection applies.

(4) Any substance shall be a noxious or, as the case may be, an offensive substance for the purposes of this Ordinance whether or not it would be so apart from this subsection.

(5) The reference in subsection (2) above to a person having control of any premises is a reference to a person having control of the premises in connection with the carrying on by him of a trade, business or other undertaking (whether for profit or not) and any duty imposed on any such person by that subsection shall extend only to matters within his control.

General duties of manufacturers etc. as regards articles and substances for use at work.

5. (1) It shall be the duty of any person who designs, manufactures, imports or supplies any article for use at work or any article of fairground

equipment –

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being set, used, cleaned or maintained by a person at work,
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by paragraph (a) above,
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested, and about any conditions necessary to ensure that it will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when it is being dismantled or disposed of, and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(2) It shall be the duty of any person who designs, manufactures, imports or supplies any article of fairground equipment –

- (a) to ensure, so far as is reasonably practicable, that the article is so designed and constructed that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment

of members of the public,

- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by the preceding paragraph,
- (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public, and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(3) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work or of any article of fairground equipment to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.

(4) It shall be the duty of any person who erects or installs any article for use at work in any premises, where that article is to be used by persons at work or who erects or installs any article of fairground equipment, to ensure, so far as is reasonably practicable, that nothing about the way in which the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph

(a) of subsection (1) or (2) above.

(5) It shall be the duty of any person who manufactures, imports or supplies any substance –

- (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which section 3 above applies,
- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on him by paragraph (a) above,
- (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on, or in connection with, the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in paragraph (a) above and when the substance is being disposed of, and
- (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of the preceding paragraph as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

(6) It shall be the duty of any person who undertakes the

manufacture of any substance to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the substance may give rise at all such times as are mentioned in paragraph (a) of subsection (5) above.

(7) Nothing in the foregoing provisions of this section shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by him or at his instance, in so far as it is reasonable for him to rely on the results thereof for the purposes of those provisions.

(8) Any duty imposed on any person by any of the foregoing provisions of this section shall extend only to things done in the course of a trade, business or other undertaking carried on by him (whether for profit or not) and to matters within his control.

(9) Where a person designs, manufactures, imports or supplies an article for use at work or an article of fairground equipment and does so for or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health at all such times as are mentioned in paragraph (a) of subsection (1) or, as the case may be, in paragraph (a) of subsection (1) or (2) above, the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by virtue of that paragraph above to such extent as is reasonable having regard to the terms of the undertaking.

(10) Nothing in subsection (8) or (9) above shall relieve any person who imports any article or substance from any duty in respect of anything which –

- (a) in the case of an article designed outside the Island, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article, or

- (b) in the case of an article or substance manufactured outside the Island, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.

(11) Where a person ("**the ostensible supplier**") supplies any article or substance to another ("**the customer**") under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier –

- (a) carries on the business of financing the acquisition of goods by others by means of such agreements, and
- (b) in the course of that business acquired his interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person ("**the effective supplier**"),

the effective supplier and not the ostensible supplier shall be treated for the purposes of this section as supplying the article or substance to the customer, and any duty imposed by the preceding provisions of this section on suppliers shall accordingly fall on the effective supplier and not on the ostensible supplier.

(12) For the purposes of this section an absence of safety or a risk to health shall be disregarded in so far as the case in or in relation to which it would arise is shown to be one the occurrence of which could not reasonably be foreseen; and in determining whether any duty imposed by virtue of paragraph (a) of subsection (1), (2) or (5) above has been performed regard shall be had to any relevant information or advice which has been provided to any person by the person by whom the article has been designed, manufactured, imported or supplied or, as the case may be, by the person by whom the substance has been manufactured, imported or supplied.

General duties of employees at work.

6. It shall be the duty of every employee while at work –

- (a) to take reasonable care for the health and safety of himself and of other persons who may be affected by his acts or omissions at work, and
- (b) as regards any duty or requirement imposed on his employer or any other person by or under any of the relevant statutory provisions, to co-operate with him so far as is necessary to enable that duty or requirement to be performed or complied with.

Duty not to interfere with or misuse things provided pursuant to certain provisions.

7. No person shall intentionally or recklessly interfere with or misuse anything provided in the interests of health, safety or welfare in pursuance of any of the relevant statutory provisions.

Duty not to charge employees for things done or provided pursuant to certain specific requirements.

8. No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions.

Notification and reporting of injuries, diseases and dangerous occurrences.

9. (1) Subject to section 11, where any person as a result of an accident arising out of or in connection with work, dies or suffers any of the injuries or conditions specified in subsection (2) below or where there is a dangerous occurrence, the responsible person shall –

- (a) forthwith notify [the Committee] thereof by the quickest practicable means, and
- (b) within 7 days send a report thereof to [the Committee] on a form approved for the purposes of this section.

(2) The injuries and conditions referred to in subsection (1) above are –

Consolidated text

- (a) fracture of the skull, spine or pelvis,
- (b) fracture of any bone –
 - (i) in the arm or wrist, but not a bone in the hand,
or
 - (ii) in the leg or ankle, but not a bone in the foot,
- (c) amputation of –
 - (i) a hand or foot, or
 - (ii) a finger, thumb or toe, or any part thereof if
the joint or bone is completely severed,
- (d) the loss of sight of an eye, a penetrating injury to an
eye, or a chemical or hot metal burn to an eye,
- (e) either injury (including burns) requiring immediate
medical treatment, or loss of consciousness, resulting
in either case from an electric shock from any
electrical circuit or equipment, whether or not due to
direct contact,
- (f) loss of consciousness resulting from lack of oxygen,
- (g) decompression sickness requiring immediate medical
treatment,
- (h) either acute illness requiring medical treatment, or loss
of consciousness, resulting in either case from the
absorption of any substance by inhalation, ingestion or
through the skin,

Consolidated text

- (i) acute illness requiring medical treatment where there is reason to believe that this resulted from exposure to a pathogen or infected material,
- (j) any other injury which results in the person injured being admitted immediately into hospital for more than 24 hours.

(3) Subject to section 11, where a person at work is incapacitated for work of a kind which he might reasonably be expected to do, either under his contract of employment, or, if there is no such contract, in the normal course of his work, for more than 3 consecutive days (excluding the day of the accident but including any days which would not have been working days) because of an injury (other than one specified in subsection (2)) resulting from an accident at work the responsible person shall within 7 days of the accident send a report thereof to [the Committee] on a form approved for the purposes of this section.

(4) Subject to section 11, where an employee, as a result of an accident at work, has suffered an injury or condition reportable under subsection (1) above which is a cause of his death within one year of the date of that accident, the employer shall inform [the Committee] in writing of the death as soon as it comes to his knowledge, whether or not the accident has been reported under subsection (1) above.

(5) Subject to subsections (6) and (7) below and to section 11, where a person at work suffers from a disease prescribed by regulations made by [the Committee] and his work involves an activity specified in such regulations the responsible person shall forthwith send a report thereof to [the Committee] on a form approved for the purposes of this section.

(6) Subsection (5) above shall apply only if –

- (a) in the case of an employee or a person undergoing training, the responsible person has received a written statement prepared by a registered medical practitioner diagnosing the disease as one prescribed under

subsection (5) above,

- (b) in the case of a self-employed person, that person has been informed by a registered medical practitioner that he is suffering from a disease so prescribed.

(7) In the case of a self-employed person, it shall be a sufficient compliance with subsection (5) above if that person makes arrangements for the report to be sent to [the Committee] by some other person.

NOTES

In section 9, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 9:

Health and Safety at Work (Prescribed Diseases) (Guernsey) Regulations, 1987.

Records.

- 10. (1) The responsible person shall keep a record of –
 - (a) any event which is required to be reported under section 9(1), (2) and (3) above which shall contain the particulars specified in Part I of Schedule 1, and
 - (b) any case of disease required to be reported under section 9(5) above, which shall contain the particulars specified in Part II of that Schedule.

(2) Any record of deaths or injuries at work which an employer is required to keep by virtue of any other enactment shall, if it covers the injuries recordable under this Ordinance or any regulations made hereunder and includes the particulars specified in Schedule 1, be sufficient for the requirements of subsection (1)(a) above.

(3) The records referred to in subsection (1) above shall be kept at the place where the work to which they relate is carried on or, if this is not reasonably practicable, at the usual place of business of the responsible person and an entry in either of such records shall be kept for at least 3 years from the date on which it was made.

(4) The responsible person shall send to [the Committee] such extracts from the records required to be kept under subsection (1) as [the Committee] may from time to time require.

(5) The provisions of Part III of Schedule 1 (which contains provisions relating to quarries) shall have effect.

(6) [The Committee] may by notice in writing served on any person who has furnished a report under section 9(1), (2), (3), (5), (6) or (7) above, require that person to give to [the Committee] in an approved form such of the information specified in Part IV of Schedule 1 as may be specified in the notice within such time as may be specified in that notice.

(7) It shall be a defence in proceedings against any person for an offence under this section for that person to prove that he was not aware of the event requiring him to notify or send a report to [the Committee] and that he had taken all reasonable steps to have all such events brought to his notice.

NOTE

In section 10, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Restrictions as to the application of section 9.

11. (1) The requirements of section 9(1), (2), (3), (5), (6) and (7) above relating to any death, injury or condition shall not apply to a patient when undergoing treatment in a hospital or in the surgery of a registered medical or dental practitioner.

Consolidated text

(2) The requirements of section 9(1), (2), (3) and (4) relating to the death, injury or condition of a person as a result of an accident, shall apply to an accident arising out of or in connection with the movement of a vehicle on a road only if that person –

- (a) was killed or suffered an injury or condition as a result of exposure to a substance being conveyed by the vehicle, or
- (b) was either himself engaged in, or was killed or suffered an injury or condition as a result of the activities of another person who was at the time of the accident engaged in, work connected with the loading or unloading of any article or substance onto or off the vehicle, or
- (c) was either himself engaged in, or was killed or suffered an injury or condition as a result of the activities of another person who was at the time of the accident engaged in, work on or alongside a road, being work concerned with the construction, demolition, alteration, repair or maintenance of –
 - (i) the road or the markings or equipment thereon,
 - (ii) the verges, fences, hedges or other boundaries of the road,
 - (iii) pipes or cables on, under, over or adjacent to the road, or
 - (iv) buildings or structures adjacent to or over the road.

(3) Section 9(1)(a) shall not apply to a self-employed person who is injured at premises of which he is the owner or occupier, but section 9(1)(b) shall

apply to such a self-employed person (other than in the case of death) and it shall be sufficient compliance with that paragraph if that self-employed person makes arrangements for the report to be sent to [the Committee] by some other person.

NOTE

In section 11, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Power of [the Committee] to direct investigations.

12. (1) This section applies to the following matters, that is to say, any accident, occurrence, situation or other matter whatsoever which [the Committee] thinks it necessary or expedient to investigate for the purposes of any of the relevant statutory provisions or with a view to the making of any Ordinance under the Law.

(2) [The Committee] may at any time appoint any person to hold an investigation into any matter to which this section applies and to make a report thereon to [the Committee], and may appoint any other person possessing legal or special knowledge to act as assessor in holding the investigation.

(3) The person or persons so appointed (hereafter in this section referred to as "**the Investigation Committee**") shall hold the investigation in such manner and under such conditions as the Investigation Committee may think most effectual for the purposes of the investigation, and for enabling the Investigation Committee to make its report to [the Committee].

(4) The Investigation Committee shall have, for the purposes of the investigation, all the powers of an inspector under this Ordinance, and, in addition, power –

- (a) to enter and inspect any premises the entry or inspection whereof appears to the Investigation Committee requisite for the said purposes,

- (b) to require the production of all books, papers and documents which it considers important for the said purposes.

(5) [The Committee] may cause the report of the Investigation Committee, or so much thereof as [the Committee] thinks fit, to be made public at such time and in such manner as [the Committee] thinks fit.

NOTE

In section 12, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART II

APPROVED CODES OF PRACTICE

Approval of codes of practice by [the Committee].

13. (1) Subject to the next following subsection, for the purpose of providing practical guidance with respect to the requirements of any of the relevant statutory provisions, [the Committee] may –

- (a) approve and issue such codes of practice (whether prepared by it or not) as in its opinion are suitable for that purpose,
- (b) approve such codes of practice issued or proposed to be issued otherwise than by [the Committee] as in its opinion are suitable for that purpose.

(2) [The Committee] shall, before approving a code of practice under subsection (1) above, consult any other States' Committee or other body that appears to [the Committee] to be appropriate.

(3) Where a code of practice is approved by [the Committee] under subsection (1) above, [the Committee] shall issue a notice in writing –

Consolidated text

- (a) identifying the code in question and stating the date on which its approval by [the Committee] is to take effect, and
 - (b) specifying for which of the provisions mentioned in the said subsection (1) the code is approved.
- (4) [The Committee] may –
- (a) from time to time revise the whole or any part of any code of practice prepared by it in pursuance of this section,
 - (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this section,

and the provisions of subsections (2) and (3) above shall, with the necessary modifications, apply in relation to the approval of any revision under this subsection as they apply in relation to the approval of a code of practice under subsection (1) above.

(5) [The Committee] may at any time withdraw its approval from any code of practice approved under this section, but before withdrawing such approval shall consult the same States Committees and other bodies as it would be required to consult under subsection (2) above if it were proposing to approve the code.

(6) Where under the last foregoing subsection [the Committee] withdraws its approval from a code of practice approved under this section, [the Committee] shall issue a notice in writing identifying the code in question and stating the date on which its approval of it is to cease to have effect.

(7) References in this Ordinance to an approved code of practice are references to that code as it has effect for the time being by virtue of any

revision of the whole or any part of it approved under this section.

(8) The power of [the Committee] under subsection (1)(b) above to approve a code of practice issued or proposed to be issued otherwise than by [the Committee] shall include power to approve a part of such a code of practice; and accordingly in this Ordinance "**code of practice**" may be read as including a part of such a code of practice.

NOTE

In section 13, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Use of approved codes of practice in criminal proceedings.

14. (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render him liable to any civil or criminal proceedings; but where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under any such provision as is mentioned in subsection (1) of the last foregoing section, being a provision for which there was an approved code of practice at the time of the alleged contravention, the next following subsection shall have effect with respect to that code in relation to those proceedings.

(2) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings; and if it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.

(3) In any criminal proceedings –

- (a) a document purporting to be a notice issued by [the Committee] under the last foregoing section shall be taken to be such a notice unless the contrary is proved, and
- (b) a code of practice which appears to the court to be the subject of such a notice shall be taken to be the subject of that notice unless the contrary is proved.

NOTE

In section 14, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART III
ENFORCEMENT, ETC.

Appointment of inspectors.

15. (1) The [Policy & Resources Committee] may appoint as inspectors (under whatever title it may from time to time determine) such persons having suitable qualifications as it thinks necessary for carrying into effect the relevant statutory provisions, and may terminate any appointment made under this section.

(2) Every appointment of a person as an inspector under this section shall be made by an instrument in writing, and the inspector shall, if so required when exercising or seeking to exercise any power conferred on him by any of the relevant statutory provisions, produce his instrument of appointment or a duly authenticated copy thereof.

NOTE

In section 15, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.¹

Powers of inspectors.

16. (1) Subject to the provisions of this section, an inspector may, for the purpose of carrying into effect any of the relevant statutory provisions, exercise the powers set out in the next following subsection.

(2) The powers of an inspector referred to in subsection (1) above are the following, namely –

- (a) at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time) to enter any premises which he has reason to believe it is necessary for him to enter for the purpose of carrying into effect any of the relevant statutory provisions,
- (b) to take with him an officer of police, if he has reasonable cause to apprehend any serious obstruction in the execution of his duty,
- (c) without prejudice to the last foregoing paragraph, on entering any premises by virtue of paragraph (a) above to take with him –
 - (i) any other person duly authorised in that behalf by [the Committee], and
 - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised,
- (d) to make such examination and investigation as may in any circumstances be necessary for the purpose of carrying into effect any of the relevant statutory provisions,

Consolidated text

- (e) as regards any premises which he has power to enter to direct that those premises or any part of them, or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under the last foregoing paragraph,
- (f) to take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (d) above,
- (g) to take samples of any articles or substances found in any premises which he has power to enter, and of the atmosphere in or in the vicinity of any such premises,
- (h) in the case of any article or substance found in any premises which he has power to enter, being an article or substance which appears to him to have caused or to be likely to cause danger to health or safety, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is in the circumstances necessary for the purpose of carrying into effect any of the relevant statutory provisions),
- (j) in the case of any such article or substance as is mentioned in the last foregoing paragraph, to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely –
 - (i) to examine it and do to it anything which he has power to do under that paragraph,

Consolidated text

- (ii) to ensure that it is not tampered with before his examination of it is completed,
 - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under any of the relevant statutory provisions or any proceedings relating to a notice under section 18 or 19 of this Ordinance,
- (k) to require any person whom he has reasonable cause to believe to be able to give any information relevant to any examination or investigation under paragraph (d) above to answer (in the absence of persons other than a person nominated by him to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of his answers,
- (l) to require the production of, inspect, and take copies of or of any entry in –
 - (i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept, and
 - (ii) any other books or documents which it is necessary for him to see for the purposes of any examination or investigation under paragraph (d) above,
- (m) to require any person to afford him such facilities and assistance with respect to any matters or things within that person's control, or in relation to which that person has responsibilities, as are necessary to enable the inspector to exercise any of the powers conferred on him by this section,

- (n) any other power which is necessary for the purpose of carrying into effect any of the relevant statutory provisions.

(3) Where an inspector proposes to exercise the power conferred by subsection (2)(h) above in the case of an article or substance found in any premises, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to those premises, cause anything which is to be done by virtue of that power to be done in the presence of that person, unless the inspector considers that its being done in that person's presence would be prejudicial to public safety.

(4) Before exercising the power conferred by subsection (2)(h) above in the case of any article or substance, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.

(5) Where under the power conferred by subsection (2)(j) above an inspector takes possession of any article or substance found in any premises, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power, and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises a portion of the sample marked in a manner sufficient to identify it.

(6) No answer given by a person in pursuance of a requirement imposed under subsection (2)(k) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings.

(7) Nothing in this section shall be taken to compel the production by any person of a document of which he would, on grounds of legal professional privilege, be entitled to withhold production in any action in the Ordinary Court.

NOTE

In section 16, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Provisions as to samples.

17. (1) An inspector taking a sample from any premises under the last foregoing section with the intention of having it analysed shall, if practicable –

- (a) forthwith after taking the sample give information of his intention to a responsible person at those premises, and
- (b) then and there divide the sample into parts, each part to be marked and sealed or fastened up, in such manner as its nature will permit and –
 - (i) if required so to do by the person so informed, deliver one part to him,
 - (ii) retain one part for future comparison, and
 - (iii) if the inspector thinks fit to have an analysis made, submit one part to an authorised analyst.

(2) Where it is not practicable for the inspector to give information of his intention as mentioned in subsection (1) above, the inspector shall, if he intends to have the sample analysed and if he can ascertain the name and address of any person who has responsibilities in relation to the premises from which the sample was taken, forward one part of the sample to him by registered post or otherwise, together with a notice informing him that he intends to have the sample analysed.

(3) A document purporting to be a certificate by an authorised

analyst as to the result of an analysis of a sample shall in proceedings under any of the relevant statutory provisions be admissible as evidence of the matters stated therein, but either party may require the analyst to be called as witness.

(4) In any proceedings under any of the relevant statutory provisions in which it is intended to rely on evidence relating to a sample taken under this section –

- (a) the summons shall not be made returnable less than fourteen days from the day on which it was served, and a copy of any certificate of analysis relating to such sample shall be served with the summons,
- (b) the part of the sample retained by the inspector for future comparison shall be produced at the hearing.

Improvement notices.

18. If [the Committee] is of the opinion that a person –

- (a) is contravening one or more of the relevant statutory provisions, or
- (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,

[the Committee] may serve on him a notice (in this Ordinance referred to as '**an improvement notice**') stating that it is of that opinion, specifying the provision or provisions as to which it is of that opinion, giving particulars of the reasons why it is of that opinion, and requiring that person to remedy the contravention or, as the case may be, the matters occasioning the contravention within such period (ending not earlier than the period within which an appeal against the notice can be brought under section 21 of this Ordinance) as may be specified in the notice.

NOTE

In section 18, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Prohibition notices.

19. (1) This section applies to any activities which are being, or are likely to be, carried on by or under the control of any person, being activities to or in relation to which any of the relevant statutory provisions apply or will, if the activities are so carried on, apply.

(2) If as regards any activities to which this section applies an inspector is of the opinion that, as carried on, or likely to be carried on, by or under the control of the person in question, the activities involve or, as the case may be, will involve a risk of serious personal injury, the inspector may serve on that person a notice (in this Ordinance referred to as "**a prohibition notice**").

(3) A prohibition notice shall –

- (a) state that the inspector is of the said opinion,
- (b) specify the matters which in his opinion give or, as the case may be, will give rise to the said risk,
- (c) where in his opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions, state that he is of that opinion, specify the provision or provisions as to which he is of that opinion, and give particulars of the reasons why he is of that opinion, and
- (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of paragraph (b) above and any associated contraventions of provisions

so specified in pursuance of paragraph (c) above have been remedied.

(4) Subject to the provisions of the next following subsection, a direction contained in a prohibition notice in pursuance of paragraph (d) of the last foregoing subsection or of the next following section shall not take effect unless it is confirmed by [the Committee] by a notice served by [the Committee] on the person on whom the prohibition notice containing the direction has been served; and in that event the direction shall have effect –

- (a) at the end of the period specified by [the Committee] in the notice under this subsection, and
- (b) subject to such modifications, if any, as [the Committee] thinks fit and states in that notice.

(5) A direction given in pursuance of subsection (3)(d) above shall take immediate effect if the inspector is of the opinion, and states it in the prohibition notice containing the direction, that the risk of serious personal injury is or, as the case may be, will be imminent, but the direction shall cease to have effect at the expiration of the seventy-two hours next following the day on which the prohibition notice was served unless it is confirmed by [the Committee] by a notice previously served by [the Committee] under and in accordance with the provisions of the last foregoing subsection.

NOTE

In section 19, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Provisions supplementary to section 18 and section 19.

20. (1) An improvement notice or a prohibition notice may include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates; and any such directions –

- (a) may be framed to any extent by reference to any approved code of practice, and
- (b) may be framed so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.

(2) Where any of the relevant statutory provisions applies to a building or any matter connected with a building and [the Committee] proposes to serve an improvement notice relating to a contravention of that provision in connection with that building or matter, the notice shall not direct any measures to be taken to remedy the contravention of that provision which are more onerous than those necessary to secure conformity with the requirements of any building regulations for the time being in force to which that building or matter would be required to conform if the relevant building were being newly erected, unless the provision in question imposes specific requirements more onerous than the requirements of any such building regulations to which the building or matter would be required to conform as aforesaid.

(3) In the last foregoing subsection "**the relevant building**", in the case of a building, means that building, and, in the case of a matter connected with a building, means the building with which the matter is connected.

(4) Before [the Committee] serves in connection with any premises used or about to be used as a place of work an improvement notice or a notice under subsection (4) of the last foregoing section requiring or likely to lead to the taking of measures affecting the means of escape in case of fire with which the premises are or ought to be provided, [the Committee] shall consult the [States Committee for Home Affairs] or such other committee of the States as may for the time being be responsible for administering the Law entitled "Loi relative au service public pour l'extinction des Incendies" (registered on the 20th day of August, 1932^c).

(5) Where an improvement notice or a prohibition notice as

^c Ordres en Conseil Vol. IX, p. 253.

confirmed by [the Committee] under subsection (4) of the last foregoing section is not to take immediate effect –

- (a) [the Committee] may withdraw the notice at any time before the end of the period specified therein in pursuance of section 18 or section 19(4) of this Ordinance, as the case may be, and
- (b) the period so specified may be extended or further extended by [the Committee] at any time when an appeal against the notice is not pending.

NOTES

In section 20, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance. The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were subsequently transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

The Loi relative au service public pour l'extinction des Incendies, 1932 has since been repealed by the Fire Services (Guernsey) Law, 1989, section 28, with effect from 4th November, 1991.

Appeal against improvement or prohibition notice.

21. (1) In this section "**a notice**" means an improvement notice or a prohibition notice as confirmed by [the Committee] under section 19(4) of this

Ordinance.

(2) A person on whom a notice is served may within the twenty-eight days next following the date of its service appeal therefrom to the Ordinary Court on the grounds that the requirement or direction contained in the notice is *ultra vires* or an unreasonable exercise of [the Committee]'s powers; and on such an appeal the Court may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modifications as the Court may in the circumstances think fit.

(3) An appeal under this section shall be instituted by way of a summons served on the [President] of [the Committee], and shall set out the material facts on which the appellant relies.

(4) Where an appeal under this section is brought against a notice within the period allowed under subsection (2) above then –

(a) in the case of an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal,

(b) in the case of a prohibition notice, the bringing of the appeal shall have the like effect if, but only if, on the application of the appellant the Ordinary Court so directs (and then only from the giving of the direction).

(5) The decision of the Ordinary Court in any proceedings brought under this section shall be final.

NOTE

In section 21, the words "the Committee" and "President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section

*5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, with effect from 1st May, 2016.*²

Power to deal with cause of imminent danger.

22. (1) Where, in the case of any article or substance found by him in any premises which he has power to enter, an inspector has reasonable cause to believe that, in the circumstances in which he finds it, the article or substance is a cause of imminent danger or serious personal injury, he may seize it and cause it to be rendered harmless (whether by destruction or otherwise).

(2) Before there is rendered harmless under this section –

- (a) any article that forms part of a batch of similar articles, or
- (b) any substance,

the inspector shall, if it is practicable for him to do so, take a sample thereof and give to a responsible person at the premises where the article or substance was found by him a portion of the sample marked in a manner sufficient to identify it.

(3) As soon as may be after any article or substance has been seized and rendered harmless under this section, the inspector shall prepare and sign a written report giving particulars of the circumstances in which the article or substance was seized and so dealt with by him, and shall –

- (a) give a signed copy of the report to a responsible person at the premises where the article or substance was found by him, and
- (b) unless that person is the owner of the article or substance, also serve a signed copy of the report on the owner,

and if, where paragraph (b) above applies, the inspector cannot after reasonable enquiry ascertain the name or address of the owner, the copy may be served on him

by giving it to the person to whom a copy was given under paragraph (a) above.

Obtaining of information by [the Committee].

23. For the purpose of obtaining any information which [the Committee] needs for the discharge of its functions under any of the relevant statutory provisions, [the Committee] may serve on any person a notice requiring that person to furnish to [the Committee] such information about such matters as may be specified in the notice, and to do so in such form and manner and within such time as may be so specified.

NOTE

In section 23, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Restrictions on disclosure of information.

24. (1) In this and the two following subsections –

(a) **"relevant information"** means information obtained by a person under section 23 of this Ordinance or furnished to any person in pursuance of a requirement imposed by any of the relevant statutory provisions, and

(b) **"the recipient"**, in relation to any relevant information, means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.

(2) Subject to the next following subsection, no relevant information shall be disclosed without the consent of the person by whom it was furnished.

(3) The preceding subsection shall not apply to –

Consolidated text

- (a) disclosure of information to [the Committee] or any other States' Committee,
- (b) without prejudice to paragraph (a) above, disclosure by the recipient of information to any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions,
- (c) without prejudice to the said paragraph (a), disclosure by the recipient of information to an officer of police authorised by the Chief Officer of Police to receive it,
- (d) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case,
- (e) disclosure of information for the purposes of any legal proceedings or any investigation held by virtue of section 12 of this Ordinance or for the purposes of a report of any such proceedings or investigation.

(4) In the last foregoing subsection any reference to [the Committee] or any other States' Committee includes respectively a reference to an officer of [the Committee] (including an inspector), and to an officer of any other such committee.

(5) A person to whom information is disclosed in pursuance of subsection (3)(a) or (b) above shall not use the information for a purpose other than a purpose of [the Committee] or other States' Committee in question, or in connection with the relevant statutory provisions, as the case may be.

(6) A person shall not disclose any information obtained by him as a result of the exercise of any power conferred under section 12 or section 16 of this Ordinance (including, in particular, any information in respect of any trade secret obtained by him in any premises entered by him by virtue of any such power) except –

- (a) for the purposes of his function, or
- (b) for the purposes of any legal proceedings or any investigation held by virtue of the said section 12 or for the purposes of a report of any such proceedings or investigation, or
- (c) with the consent, in the case of information furnished in pursuance of a requirement imposed under the said section 16, of the person who furnished it, and, in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.

(7) Notwithstanding anything in the last foregoing subsection, an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives the following descriptions of information, that is to say –

- (a) factual information obtained by him as mentioned in that subsection which relates to those premises or anything which was or is therein or was or is being done therein, and
- (b) information with respect to any action which he has taken or proposes to take in or in connection with those premises in the performance of his functions,

and where an inspector does as aforesaid, he shall give the like information to the employer of the first-mentioned persons.

(8) Notwithstanding anything in subsections (6) and (7) above, a person who has obtained such information as is referred to in those subsections may furnish to a person who appears to him to be likely to be a party to any civil

proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by him in the course of exercising any of the powers referred to in those subsections.

NOTE

In section 24, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

PART IV
PROVISIONS AS TO OFFENCES

Offences.

- 25.** (1) It shall be an offence for a person –
- (a) to fail to discharge a duty to which he is subject by virtue of sections 1 to 6 of this Ordinance,
 - (b) to contravene sections 7, 8, 9(1) or 10 of this Ordinance,
 - (c) to contravene any requirement imposed by virtue of section 12 of this Ordinance by a person appointed under that section to hold an investigation or intentionally to obstruct any such person in the exercise of his powers under that section,
 - (d) to contravene any requirement imposed by an inspector under section 16 or section 22 of this Ordinance,
 - (e) to prevent or attempt to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of section 16(2) of this Ordinance require an answer,

Consolidated text

- (f) to contravene any requirement or prohibition, imposed by an improvement notice or a prohibition notice (including any such notice as modified on appeal),
- (g) intentionally to obstruct an inspector in the exercise or performance of his powers or duties,
- (h) to contravene any requirement imposed by a notice under section 23 of this Ordinance,
- (j) to use or disclose any information in contravention of section 24(2), (5) or (6) of this Ordinance,
- (k) to make a statement which he knows to be false or recklessly to make a statement which is false where the statement is made –
 - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions, or
 - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to himself or another person,
- (l) intentionally to make a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, to make use of any such entry which he knows to be false,
- (m) with intent to deceive, to forge or use a document issued or authorised to be issued under any of the relevant statutory provisions or required for any purpose thereunder or to make or have in his

Consolidated text

possession a document so closely resembling any such document as to be calculated to deceive,

- (n) falsely to pretend to be an inspector,
- (o) to fail to comply with an order made by a court under section 29 of this Ordinance.

(2) A person guilty of an offence under subsection (1)(c), (e), (g) or (n) above, or of an offence under subsection (1)(d) above consisting of contravening a requirement imposed by an inspector under section 16 of this Ordinance, shall be liable, on summary conviction, to a fine not exceeding [[twice level 5] on the uniform scale].

(3) A person guilty of an offence under any paragraph of subsection (1) above not mentioned in the last foregoing subsection, or of an offence under subsection (1)(d) above not falling within the last foregoing subsection, shall be liable –

- (a) on summary conviction, to a fine not exceeding [[twice level 5] on the uniform scale],
- (b) on conviction on indictment –
 - (i) if the offence is an offence under subsection (1)(f) above consisting of contravening a requirement or prohibition imposed by a prohibition notice or an offence under subsection (1)(j) above, to imprisonment for a term not exceeding two years, or a fine, or both,
 - (ii) if the offence is not one to which the preceding sub-paragraph applies, to a fine.

(4) Where a person is convicted of an offence under subsection

(1)(f) or (o) above then, if the contravention in respect of which he was convicted is continued after the conviction he shall (subject to section 29(3) of this Ordinance) be guilty of a further offence and liable in respect thereof to a fine not exceeding £200 for each day on which the contravention is so continued.

NOTES

In section 25,

the words 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;

the words and figure in the square brackets within the square brackets were substituted by the Health and Safety at Work (General) (Guernsey) (Amendment) Ordinance, 2012, section 1, with effect from 26th September, 2012.

Offences due to fault of other person.

26. Where the commission by any person of an offence under any of the relevant statutory provisions is due to the act or default of some other person, that other person shall be guilty of the offence, and a person may be charged with and convicted of the offence by virtue of this section whether or not proceedings are taken against the first-mentioned person.

Offences by bodies corporate.

27. (1) Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a 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) Where the affairs of a body corporate are managed by its members, the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Onus of proving limits of what is practicable, etc.

28. In any proceedings for an offence under any of the relevant statutory provisions consisting of a failure to comply with a duty or requirement to do something so far as is practicable or so far as is reasonably practicable, or to use the best practicable means to do something, it shall be for the accused to prove (as the case may be) that it was not practicable or not reasonably practicable to do more than was in fact done to satisfy the duty or requirement, or that there was no better practicable means than was in fact used to satisfy the duty or requirement.

Power of court to order cause of offence to be remedied.

29. (1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to be matters which it is in his power to remedy, the court may, in addition to, or instead of imposing any punishment, order him, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters.

(2) The time fixed by an order under subsection (1) above may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this subsection, as the case may be.

(3) Where a person is ordered under subsection (1) above to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under the last foregoing subsection.

PART V

MISCELLANEOUS AND GENERAL

Appeals in connection with licensing provisions in the relevant statutory provisions.

30. (1) Any person who is aggrieved by a decision of [the Committee] under any of the relevant statutory provisions –

- (a) refusing to issue him a licence, to renew a licence held by him, or to transfer to him a licence held by another,
- (b) issuing him a licence on or subject to any term, condition or restriction whereby he is aggrieved,
- (c) varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by him, or
- (d) revoking a licence held by him,

may appeal therefrom to the Ordinary Court on the grounds that the decision of [the Committee] is *ultra vires* or an unreasonable exercise of [the Committee]'s powers.

(2) Where the Ordinary Court allows an appeal under this section, it may vary or reverse the decision of [the Committee] to which the appeal relates and [the Committee] shall give effect to the order of the Court varying or reversing such decision.

(3) An appeal under this section shall be instituted by way of a summons served on the [President] of [the Committee] and shall set out the material facts on which the appellant relies.

(4) The decision of the Ordinary Court in any proceedings brought under this section shall be final.

NOTES

In section 30, the words "the Committee" and "President" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 1(b), Schedule 2, Part I, paragraph 1, with effect from 1st May, 2016.

In accordance with the provisions of the Control of Poisonous Substances (Guernsey) Regulations, 2014, regulation 11(9), with effect from 12th May, 2014, section 30 has effect in relation to any decision relating to an

approval by the Committee for Employment & Social Security of a poisonous substance of any kind or description as if it were a decision relating to a licence, for the purposes of this section.

Service of notices.

31. (1) Any notice required or authorised by any of the relevant statutory provisions to be served on, or given to, [the Committee] may be served or given by delivering it to or by leaving it at, or sending it by post to, the office of [the Committee].

(2) Any such notice required or authorised to be served on, or given to any person may be served or given by delivering it to him, or by leaving it at his proper address, or by sending it by post to him at that address.

(3) Any such notice may –

- (a) in the case of a body corporate, be served on or given to the secretary or clerk of that body,
- (b) in the case of a partnership, be served on or given to a partner or a person having the control or management of the partnership business.

(4) For the purposes of this section and of section 11 of the Interpretation (Guernsey) Law, 1948^d, in its application to this section, the proper address of any person on or to whom any such notice is to be served or given shall be his last known address, except that –

- (a) in the case of a body corporate or their secretary or clerk, it shall be the address of the registered or principal office of that body,
- (b) in the case of a partnership or a person having the control or the management of the partnership business,

^d Ordres en Conseil Vol. XIII, p. 355.

it shall be the principal office of the partnership,

and for the purposes of this subsection the principal office of a company registered outside the Island or of a partnership carrying on business outside the Island shall be their principal office in the Island.

(5) If the person to be served with or given any such notice has specified an address in the Island other than his proper address within the meaning of the last foregoing subsection, as the one at which he or someone on his behalf will accept notices of the same description as that notice, that address shall also be treated for the purposes of this section and section 11 of the Interpretation (Guernsey) Law, 1948, as his proper address.

(6) Without prejudice to any other provision of this section, any such notice required or authorised to be served on, or given to, the owner or occupier of any premises (whether a body corporate or not) may be served or given by sending it by post to him at those premises, or by addressing it by name to the person on or to whom it is to be served or given, and delivering it to some responsible person who is or appears to be resident or employed in the premises.

(7) If the name or the address of any owner or occupier of premises on or to whom any such notice as aforesaid is to be served or given cannot after reasonable inquiry be ascertained, the notice may be served or given by addressing it to the person on or to whom it is to be served or given by the description of "owner" or "occupier" of the premises (describing them) to which the notice relates, and by delivering it to some responsible person who is or appears to be resident or employed in the premises, or, if there is no such person to whom it can be delivered, by affixing it or a copy of it to some conspicuous part of the premises.

(8) The preceding provisions of this section shall apply to the sending or giving of a document as they apply to the giving of a notice.

NOTE

In section 31, the words "the Committee" in square brackets, wherever

occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Civil liability.

32. (1) Breach of a duty imposed by any of the relevant statutory provisions shall, so far as it causes damage, be actionable except in so far as those provisions may otherwise provide.

(2) Any term of an agreement which purports to exclude or restrict the operation of subsection (1) above, or any liability arising by virtue of that subsection, shall be void.

(3) In this section "**damage**" includes the death of, or injury to, any person (including any disease and any impairment of a person's physical or mental condition).

Exclusion of application to domestic employment.

33. Nothing in this Ordinance shall apply in relation to a person by reason only that he employs another, or is himself employed, as a domestic servant in a private household.

Repeals.

34. The enactments set out in the first column of Schedule 3 to this Ordinance are repealed to the extent shown in the second column of that Schedule.

Interpretation.

35. (1) In this Ordinance, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"article for use at work" means –

- (a) any plant designed for use or operation (whether exclusively or not) by persons at work, and

- (b) any article designed for use as a component in any such plant,

"article of fairground equipment" means any fairground equipment or any article designed for use as a component in any such equipment,

"authorised analyst" means a person for the time being authorised to act as an analyst for the purposes of this Ordinance by [the Committee],

"building regulations" means regulations made under the Building (Guernsey) Law, 1956^e,

"Chief Officer of Police" means the Chief Officer of the salaried police force of the Island of Guernsey,

"code of practice" (without prejudice to section 13(8) of this Ordinance) includes a standard, a specification and any other documentary form of practical guidance,

"[the Committee]" means the [States of Guernsey [Committee for Employment & Social Security]] or such other committee as the States may by Resolution appoint,]

"conditional sale agreement" means an agreement for the sale of goods under which the purchase price or part of it is payable by instalments, and the property in the goods is to remain in the seller (notwithstanding that the buyer is to be in possession of the goods) until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled,

"contravention" includes failure to comply, and **"contravene"** has a corresponding meaning,

"credit-sale agreement" means an agreement for the sale of goods,

^e Ordres en Conseil Vol. XVII, p. 56.

under which the purchase price or part of it is payable by instalments, but which is not a conditional sale agreement,

"dangerous occurrence" means an occurrence which arises out of or in connection with work and is of a class specified in –

- (a) Part I of Schedule 2,
- (b) Part II of Schedule 2 and takes place at a quarry,

"domestic premises" means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by the occupants of more than one such dwelling) and **"non-domestic premises"** shall be construed accordingly,

"enactment" includes an Order or Regulations made under an enactment,

"factory" has the same meaning as in the Safety of Employees (Miscellaneous Provisions) Ordinance, 1952^f,

"fairground equipment" means any fairground ride, any similar plant which is designed to be in motion for entertainment purposes with members of the public on or inside it or any plant which is designed to be used by members of the public for entertainment purposes either as a slide or for bouncing upon, and in this definition the reference to plant which is designed to be in motion with members of the public on or inside it includes a reference to swings, dodgems and other plant which is designed to be in motion wholly or partly under the control of, or to be put in motion by, a member of the public,

"growing property" has the same meaning as in the Safety of

^f Recueil d'Ordonnances Tome X, p. 194.

Employees (Growing Properties) Ordinance, 1954^g,

"hire-purchase agreement" means an agreement other than a conditional sale agreement, under which –

- (a) goods are bailed or hired in return for periodical payments by the person to whom they are bailed or hired, and
- (b) the property in the goods will pass to that person if the terms of the agreement are complied with and one or more of the following occurs –
 - (i) the exercise of an option to purchase by that person,
 - (ii) the doing of any other specified act by any party to the agreement,
 - (iii) the happening of any other event,

and **"hire-purchase"** shall be construed accordingly,

"improvement notice" means a notice under section 18 of this Ordinance,

"inspector" means an inspector appointed under section 15 of this Ordinance,

"ionising radiations" has the same meaning as in the Safety of Employees (Ionising Radiations) (Guernsey) Ordinance, 1967^h,

"the Island" means the Island of Guernsey and includes the Islands

^g Recueil d'Ordonnances Tome XI, p. 55.

^h Recueil d'Ordonnances Tome XV, p. 90.

of Herm and Jethou,

"the Law" means the Health and Safety at Work etc. (Guernsey) Law, 1979,

"micro-organism" includes any microscopic biological entity which is capable of replication,

"officer of police" means a member of the salaried police force of the Island of Guernsey and, within the limit of his jurisdiction, a member of the special constabulary of that Island,

"offshore installation" means any installation which is intended for underwater exploitation of mineral resources or exploration with a view to such exploitation,

"operator" means in relation to a vehicle to which paragraphs 13 or 14 of Schedule 2, Part I applies –

- (a) a person who holds an operator's licence for the use of that vehicle for the carriage of goods on a road, or
- (b) where no such licence is required, the owner or keeper of the vehicle,

"the Ordinary Court" means the Royal Court sitting as an Ordinary Court,

"personal injury" includes any disease and any impairment of a person's physical or mental condition,

"plant" includes any machinery, equipment or appliance,

"premises" includes any place and, in particular, includes –

- (a) any vehicle, vessel, aircraft or hovercraft,

- (b) any installation on land (including the foreshore and other land intermittently covered by water), any offshore installation, and any other installation (whether floating, or resting on the seabed or the subsoil thereof, or resting on other land covered with water or the subsoil thereof), and
- (c) any tent or movable structure,

"prescribed" means prescribed by [the Committee] by regulations,

"prohibition notice" means a notice under section 19 of this Ordinance,

"quarry" has the same meaning as in the Quarries (Safety) Ordinance, 1954ⁱ,

"the relevant statutory provisions" means –

- (a) the provisions of any Ordinance made under the Law, including this Ordinance, and
- (b) the provisions of any Ordinance made under the Law entitled "The Health, Safety and Welfare of Employees Law, 1950", registered on the 22nd day of April, 1950, and
- (c) the enactments specified in Schedule 4,

"responsible person" means –

- (a) in the case of –

ⁱ Recueil d'Ordonnances Tome XI, p. 3.

Consolidated text

- (i) a quarry, the owner of that quarry,
 - (ii) a pipeline as defined in paragraph 12(2) of Schedule 2 to this Ordinance, the owner of that pipeline,
 - (iii) a vehicle to which paragraph 13 or 14 of Schedule 2, Part I applies, the operator of the vehicle,
- (b) where sub-paragraph (a) above does not apply, in the case of any event (other than a dangerous occurrence) reportable under section 9(1), (3) or (4), or any case of disease reportable under section 9(5), involving –
- (i) an employee at work (including any person who is to be treated as an employee by virtue of any relevant statutory provision), his employer,
 - (ii) a person (excluding one who is to be treated as an employee by virtue of any relevant statutory provision) undergoing training for employment, the person whose undertaking makes the immediate provision of that training,
- (c) in any other case, the person for the time being having control of the premises in connection with the carrying on by him of any trade, business or other undertaking (whether for profit or not) at which, or in connection with the work at which, the accident or dangerous occurrence reportable under section 9(1), (3) or (4), or case of disease reportable under section 9(5), happened,

"the [Policy & Resources Committee]" means the States of

Guernsey [Policy & Resources Committee] or such other Board, Committee or body as the States may from time to time by Resolution appoint to perform the functions of the [Policy & Resources Committee] under this Ordinance,

"substance" means any natural or artificial substance, (including micro-organisms) whether in solid or liquid form or any combination of the two forms, or in the form of a gas or vapour,

"substance for use at work" means any substance intended for use (whether exclusively or not) by persons at work,

"supply", where the reference is to supplying articles or substances, means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another,

"training" includes work experience received as part of a training programme; it does not include training on a course at a university, polytechnic, college, school or similar educational or technical institute where that body is the immediate provider of the training; but it does include training at a skillcentre, training centre or other training establishment,

"work" means work as an employee, as a self-employed person or as a person undergoing training for employment.

(2) The functions conferred on [the Committee] by or under this Ordinance may be exercised or discharged by the [President] of [the Committee] and one other member thereof or by any two members of [the Committee] if authorised in that behalf by [the Committee].

(3) Except where the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as including a reference to that enactment as amended, replaced, extended or applied by or under any other enactment, including this Ordinance.

NOTES

In section 35,

the words, first, "the Committee" and, second, "Committee for Employment & Social Security" in square brackets within the second pair of square brackets and, third, "the Committee" in square brackets, wherever else occurring, and, fourth, "President", wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4, section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, section 5(1), Schedule 3, paragraph 4 and section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, with effect from 1st May, 2016;³

the words in the second pair of square brackets in subsection (1) was substituted by the Transfer of Functions Ordinance, 1991, section 4, Schedule 3, paragraph 15, with effect from 31st July, 1991;

the words in the second pair of square brackets within the definition of the expression "the Committee" in subsection (1) were substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 23, with effect from 31st October, 1996;

the words in square brackets in the definition of the expression "the Policy & Resources Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016.⁴

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁵

The functions, rights and liabilities of the Policy Council and of its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁶

In accordance with the provisions of the Police Force (Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

In accordance with the provisions of the Health and Safety (Gas) (Guernsey) Ordinance, 2006, section 1(2)(b), with effect from 1st June, 2006, the provisions of that Ordinance are "relevant statutory provisions" for the purpose of this Ordinance.

The Building (Guernsey) Law, 1956 has since been repealed by the Land Planning and Development (Guernsey) Law, 2005, section 93, Schedule 3, Part I, paragraph 1, with effect from 6th April, 2009, subject to, first, the savings in section 93 of the 2007 Law and, second, the savings and transitional provisions in the Land Planning and Development (Guernsey) Law, 2005 (Savings and Transitional Provisions) Ordinance, 2007.

Power to make Regulations.

36. (1) [The Committee] may, from time to time, make Regulations prescribing –

- (a) the preparation and revision of general policy statements with respect to health and safety at work where less than 5 persons are employed pursuant to section 1(4)(b),
- (b) the giving of such information about such aspects of the way in which an undertaking is conducted as might affect the health or safety of persons affected by the conduct of the undertaking, pursuant to section 2(3),
- (c) diseases required to be notified to [the Committee] pursuant to section 9(5),
- (d) the manner of testing required under paragraph 6(2) of Schedule 2, and
- (e) the substances deemed to be "**dangerous substances**" for the purposes of –
 - (i) paragraph 13(2) of Schedule 2, or
 - (ii) paragraph 14(2) of Schedule 2.

(2) The power to make Regulations referred to in subsection (1) above shall include power to vary or revoke any Regulations so made by any subsequent Regulations.

NOTES

In section 36, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

The following Regulations have been made under section 36:

Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1987;

Health and Safety at Work (Prescribed Diseases) (Guernsey) Regulations, 1987;

Health and Safety at Work (Highly Flammable Liquids) (Guernsey) Regulations, 1988;

Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1995.

Transfer of certain functions to [the Committee].

37. (1) The powers and functions vested in the States Board of Administration (hereinafter referred to as "**the Board**") under the Laws entitled "Loi relative aux Huiles ou Essences Minérales ou autres substances de la même nature, 1924" registered on the 5th day of April, 1925^j and the "Loi supplémentaire à la Loi relative aux Huiles ou Essences Minérales ou autres substances de la même nature (1927)" registered on the 16th day of July, 1927^k are hereby transferred to and vested in [the Committee].

(2) The powers and functions vested in the States Housing Authority (hereinafter referred to as "**the Authority**") under the Ordinance entitled the Public Highways Ordinance, 1967^l are hereby transferred to and vested in [the Committee].

(3) In addition to the powers and functions transferred and vested under the provisions of subsections (1) and (2) above there are also hereby so transferred and vested all rights and liabilities enjoyed by, or incumbent on the Board or the Authority, as the case may be, in or as a result of the exercise of those

^j Ordres en Conseil Vol. VII, p. 324.

^k Ordres en Conseil Vol. VIII, p. 149.

^l Recueil d'Ordonnances Tome XV, p. 241.

powers or functions.

(4) Nothing done by, or in relation to, the Board or the Authority, as the case may be, under or as a consequence of the powers of subsections (1) and (2) above before the coming into force of this Ordinance shall be invalidated by the coming into force thereof.

(5) Anything in process of being done under any of the provisions referred to in subsections (1) or (2) above by, or in relation to, the Board or the Authority as the case may be, at the date of the coming into force of this Ordinance, whether by way of legal proceedings or otherwise, may be continued by, or in relation to [the Committee].

(6) The enactments set out in the left hand column of Schedule 5 are hereby amended to the extent set out in the right hand column of that Schedule.

NOTES

In section 37, the words "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004, the States Board of Administration has since been replaced by the Home Department; and the functions, rights and liabilities of the Board of Administration and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), with effect from that same date, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance. In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, the Home Department has since been replaced by the Committee for Home Affairs; and the functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

In accordance with the provisions of the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1,

paragraph 17, with effect from 6th May, 2004, the States Housing Authority has since been replaced by the Housing Department; and the functions, rights and liabilities of the Housing Authority and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Housing Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 17, with effect from that same date, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance. In accordance with the provisions of the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 7(a), with effect from 1st May, 2016, the Housing Department has since been replaced by the Committee for Employment & Social Security; and the functions, rights and liabilities of the Housing Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 7(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Extent.

38. This Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

Citation and commencement.

39. (1) This Ordinance may be cited as the Health and Safety at Work (General) (Guernsey) Ordinance, 1987.

(2) This Ordinance shall come into force on the 1st day of December, 1987.

SCHEDULE 1
RECORDS

Section 10

PART I

PARTICULARS TO BE KEPT IN RECORDS OF ANY EVENT WHICH IS
REPORTABLE UNDER SECTION 9(1), (2) and (3)

1. Date and time of accident or dangerous occurrence.
2. The following particulars of the person affected –
 - (a) full name,
 - (b) occupation,
 - (c) nature of injury or condition.
3. Place where the accident or dangerous occurrence happened.
4. A brief description of the circumstances.

PART II

PARTICULARS TO BE KEPT IN RECORDS OF INSTANCES OF ANY
DISEASES REPORTABLE UNDER SECTION 9(5)

1. Date of diagnosis of the disease.
2. Full name and occupation of the person affected.
3. Name or nature of the disease.

PART III

ADDITIONAL PROVISIONS RELATING TO QUARRIES

1. In this part of this Schedule, unless the context otherwise requires, "**nominated person**" means the person who is for the time being nominated

–

- (a) in a case where there is an association or body representative of a majority of the total number of persons employed at a quarry, by that association or body,
- (b) in any other case, jointly by associations or bodies which are together representative of such a majority,

to receive on behalf of the persons so employed notices under this part of this Schedule.

2. Where at a quarry any person, as a result of an accident arising out of or in connection with work, dies or suffers any of the injuries or conditions specified by section 9(2), or where there is a dangerous occurrence, the responsible person shall –

- (a) forthwith notify the nominated person thereof by the quickest practicable means, and
- (b) within 7 days send a report thereof to the nominated person on a form approved for the purposes of section 9.

3. Where there is a non-fatal injury to any person at a quarry which is reported in accordance with paragraph 2, after which that person dies and his death is as a result of the accident, then as soon as it comes to his knowledge the responsible person shall give notice of the death to the nominated person.

4. Where there is an accident or dangerous occurrence in relation to which paragraph 2 applies no person shall disturb the place where it happened or tamper with anything at that place before –

- (a) the expiration of 3 clear days after the matter to which paragraph 2 applies has been notified in accordance

with this Ordinance, or

- (b) the place has been visited by an inspector exercising the powers conferred on him by this Ordinance,

whichever is the sooner.

PART IV

MATTERS WHICH [THE COMMITTEE] MAY REQUIRE TO BE NOTIFIED

1. Further details of the circumstances leading up to the reported incident.
2. Further details about the nature or design or both of any plant involved in the reported incident.
3. Safety systems and procedures for the control of the plant or substance involved in the reported incident.
4. Qualifications, experience and training of staff having use or control of any plant or substance or concerned with safety systems or procedures.
5. Design and operation documentation.
6. Arrangements for the protection of personnel from any plant or substance connected with the reported incident.
7. Details of any examination of, or tests carried out on, any plant or installation involved in the reported incident.
8. Any available information about levels of exposure of persons at the work place to airborne substances.

NOTE

In Schedule 1, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

SCHEDULE 2
DANGEROUS OCCURRENCES

Section 35(1)

PART I
GENERAL

Lifting machinery etc.

1. The collapse of, the overturning of, or the failure of any load bearing part of –
 - (a) any lift, hoist, crane, derrick or mobile powered access platform, but not any winch, teagle, pulley block, gin wheel, transporter or runway,
 - (b) any excavator, or
 - (c) any pile driving frame or rig having an overall height, when operating, of more than 7 metres.

Passenger carrying amusement device

2. The following incidents at a fun fair (whether or not a travelling fun fair) while the relevant device is in use or under test –
 - (a) the collapse of, or the failure of any load bearing part of, any amusement device provided as part of the fun fair which is designed to allow passengers to move or ride on it or inside it, or
 - (b) the failure of any safety arrangement connected with such device, which is designed to restrain or support passengers.

Pressure vessels

3. Explosion, collapse or bursting of any closed vessel, including a boiler or boiler tube, in which the internal pressure was above or below atmospheric pressure, which might have been liable to cause the death of, or any of the injuries or conditions covered by section 9(2) to, any person, or which resulted in the stoppage of the plant involved.

Electrical short circuit

4. Electrical short circuit or overload attended by fire or explosion which resulted in the stoppage of the plant involved and which, taking into account the circumstances of the occurrence, might have been liable to cause the death of, or any of the injuries or conditions covered by section 9(2) to, any person.

Explosion or fire

5. An explosion or fire occurring in any plant or place which resulted in the stoppage of that plant or suspension of normal work in that place where such explosion or fire was due to the ignition of process materials, their by-products (including waste) or finished products.

Escape of flammable substances

6. (1) The sudden, uncontrolled release of liquefied petroleum gas or any other highly flammable liquid defined in sub-paragraph (2) below, flammable gas or flammable liquid above its boiling point from any system or plant or pipeline.

(2) In this Schedule –

"aqueous ammonia" means ammonia gas dissolved in water,

"highly flammable liquid" means any of the following, other than aqueous ammonia, liquefied flammable gas and liquefied petroleum gas, that is to say, any liquid, liquid solution, emulsion or suspension which, when tested in the prescribed manner gives off a flammable vapour at a temperature of less than 32 degrees Celsius and, when tested by any further

prescribed manner supports combustion,

"liquefied flammable gas" means any substance which at a temperature of 20 degrees Celsius and a pressure of 760 millimetres of mercury would be a flammable gas, but which is in liquid form as a result of the application of pressure or refrigeration or both,

"liquefied petroleum gas" means commercial butane (that is, a hydrocarbon mixture consisting predominantly of butane, butylene or any mixture thereof) or commercial propane (that is, a hydrocarbon mixture consisting predominantly of propane, propylene or any mixture thereof) or any mixture of commercial butane and commercial propane.

Collapse of scaffolding

7. A collapse or partial collapse of any scaffold which results in a substantial part of the scaffold falling or over-turning; and where the scaffold is slung or suspended, a collapse or partial collapse of the suspension arrangements (including any outrigger) which causes a working platform or cradle to fall.

Collapse of building or structure

8. Any unintended collapse or partial collapse of –
- (a) any building or structure under construction, reconstruction, alteration or demolition, or of any false-work, involving a fall of material, or
 - (b) any floor or wall of any building being used as a place of work, not being a building under construction, reconstruction, alteration or demolition.

Escape of a substance or pathogen

9. The uncontrolled or accidental release or the escape of any substance or pathogen from any apparatus, equipment, pipework, pipe-line, process plant,

storage vessel, tank, in-works conveyance tanker, land-fill site, or exploratory land drilling site, which having regard to the nature of the substance or pathogen and the extent and location of the release or escape, might have been liable to cause the death of, any of the injuries or conditions covered by section 9(2) to, or other damage to the health of, any person.

Explosives

10. Any ignition or explosion of explosives, where the ignition or explosion was not intentional.

Freight containers

11. Failure of any freight container or failure of any load bearing part thereof while it is being raised, lowered or suspended and in this paragraph "**freight container**" means an article of transport equipment which is –

- (a) of a permanent character and accordingly strong enough for repeated use, and
- (b) designed to facilitate the transport of goods by one or more modes of transport without intermediate reloading, and
- (c) designed to be secured or readily handled or both, and

includes a container when carried on a chassis but does not include a vehicle or packaging.

Pipelines

12. (1) Either of the following incidents in relation to a pipeline –

- (a) the bursting, explosion or collapse of a pipeline or any part thereof, or

Consolidated text

- (b) the unintentional ignition of anything in a pipeline, or of anything which immediately before it was ignited was in a pipeline.

(2) In this paragraph "**pipeline**" means a pipe or system of pipes for the conveyance of anything, together with –

- (a) any apparatus for inducing or facilitating the flow of anything through, or through a part of, the pipe or system,
- (b) valves, valve chambers and similar works which are annexed to, or incorporated in the course of the pipe system,
- (c) apparatus for supplying energy for the operation of any such apparatus or works as are mentioned in the preceding paragraph,
- (d) apparatus for the transmission of information for the operation of the pipe or system,
- (e) apparatus for the cathodic protection of the pipe or system, and
- (f) a structure used or to be used solely for the support of a part of the pipe or system.

Conveyance of dangerous substances by road

13. (1) Any incident –

- (a) in which a road tanker or tank container used for conveying a dangerous substance by road –
 - (i) overturns, or

Consolidated text

- (ii) suffers serious damage to the tank in which the dangerous substance is being conveyed, or
- (b) in which there is, in relation to such a road tanker or tank container –
 - (i) an uncontrolled release or escape of the dangerous substance being conveyed, or
 - (ii) a fire which involves the dangerous substance being conveyed.
- (2) In this paragraph –

"dangerous substance" means any substance (including any preparation) which is either –

- (a) specified by [the Committee] by Regulations under section 36(1)(e)(i), unless it is conveyed by road at such a dilution that a risk to the health and safety of any person is not created by that conveyance, or
- (b) any other substance which by reason of its characteristic properties creates a risk to the health and safety of any person in the course of conveyance by road which is comparable with the risk created by substances which are specified in sub-paragraph (a) above,

"goods vehicle" means a motor vehicle constructed or adapted for use for the carriage of goods, or a trailer so constructed or adapted,

"road tanker" means a goods vehicle which has a tank which is structurally attached to, or is an integral part of, the frame of the vehicle,

"tank" means a tank which is –

- (a) used for the conveyance by road of a liquid, gaseous, powdery or granular material or a sludge, in bulk, and
- (b) so constructed that it can be securely closed (except for the purpose of relieving excessive pressure) during the course of conveyance by road,

"tank container" means a tank (whether or not divided into separate compartments) having a total capacity of more than 3 cubic metres other than the tank of a road tanker.

(3) A vehicle shall be deemed for the purposes of this paragraph to be used for the conveyance by road of a dangerous substance throughout the period –

- (a) in the case of a road tanker, from the commencement of loading for the purpose of conveying the substance on a road until the tank or compartment of the tank has been cleaned or purged so that any of the substance or its vapour which remains in it is not sufficient to create a risk to the health or safety of any person, or
- (b) in the case of a vehicle carrying a tank container from either –
 - (i) the time at which the tank container containing the dangerous substance is placed on the vehicle, or
 - (ii) if the container was placed on the vehicle before loading was commenced, from the commencement of loading,

for the purpose of conveying the substance on a road

until either –

- (iii) the tank container is removed from the vehicle,
or
- (iv) the tank container or compartment of the tank container has been cleaned or purged so that any of the substance or its vapour which remains in it is not sufficient to create a risk to the health or safety of any person,

and in either case, whether or not the vehicle is on a road at the material time.

14. (1) Any incident involving a vehicle conveying a dangerous substance by road, other than a vehicle to which paragraph 13 applies, where there is –

- (a) an uncontrolled release or escape from any package or container of the dangerous substance being conveyed,
or
- (b) a fire which involves the dangerous substance being conveyed.

(2) In this paragraph "**dangerous substance**" means a substance which is dangerous for conveyance as prescribed by Regulations under section 36(1)(e)(ii).

Breathing apparatus

15. Any incident where breathing apparatus, while being used to enable the wearer to breathe independently of the surrounding environment, malfunctions in such a way as to be likely either to deprive the wearer of oxygen or, in the case of use in a contaminated atmosphere, to expose the wearer to the contaminant, to the extent in either case of posing a danger to his health, except that this paragraph shall not apply to such apparatus while it is being maintained or tested.

Overhead electric lines

16. Any incident in which plant or equipment either comes into contact with an uninsulated overhead electric line in which the voltage exceeds 200 volts, or causes an electrical discharge from such an electric line by coming into close proximity to it, unless in either case the incident was intentional.

PART II
DANGEROUS OCCURRENCES WHICH ARE REPORTABLE IN RELATION
TO QUARRIES

1. The collapse of any storage bunker.

2. (1) An incident in which any person suffers an injury, not being an injury covered by section 9(2) or one reportable under section 9(3), resulting from an explosion or discharge of any explosive article or substance for which he receives first-aid or medical treatment at the quarry.

(2) In this paragraph –

"explosive article" means an article containing one or more explosive substances,

"explosive substance" means –

- (a) a solid or liquid substance, or
- (b) a mixture of solid or liquid substances or both, which is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings or which is designed to produce an effect by heat, light, sound, gas or smoke or a combination of these as a result of non-detonative self-sustaining exothermic chemical reactions.

3. An occurrence in which any substance is ascertained to have been projected beyond a quarry boundary as a result of blasting operations in circumstances in which any person was, or might have been, endangered.

4. An incident in which any person suffers electric shock or burns requiring first-aid or medical treatment at a quarry from any electrical circuit (whether or not due to direct contact) in which the voltage for the time being exceeds 25 volts.

NOTES

In Schedule 2, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In accordance with the provisions of the Health and Safety at Work (Highly Flammable Liquids) (Guernsey) Regulations, 1988, regulation 1, with effect from 25th May, 1988, Schedule 1 and Schedule 2 to the 1988 Regulations shall have effect for prescribing methods of test for the determination of a "highly flammable liquid" specified under paragraph 6 of this Schedule.

In accordance with the provisions of the Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1987, regulation 1, with effect from 1st January, 1988, and for the purposes of paragraphs 13(2)(a) and 14(2) of Part I of this Schedule, the substances specified in the Schedule to the 1987 Regulations are thereby deemed to be "dangerous substances".

In accordance with the provisions of the Health and Safety at Work (Dangerous Substances) (Guernsey) Regulations, 1995, regulation 1, with effect from 9th March, 1995, and for the purposes of paragraphs 13(2)(a) and 14(2) of Part I of this Schedule, the substances specified in the Schedule to the 1995 Regulations are thereby deemed to be "dangerous substances" and, for the purposes of the said paragraph 14(2), dangerous for conveyance.

SCHEDULE 3
REPEALS

Section 34

(1) Ordinance	(2) Provisions Repealed
The Safety of Employees (Miscellaneous Provisions) Ordinance, 1952.	Section 25. Section 26. PART IV Section 62. Section 69. Section 74. Section 75. Section 76.
The Quarries (Safety) Ordinance, 1954	Section 16. PART V Section 49. Section 50. Section 54. Section 61.
The Safety of Employees (Growing Properties) Ordinance, 1954.	PART IV Section 32. Section 33. Section 37. Section 45.
The Safety of Employees (Electricity) Ordinance, 1956 ^m .	Section 20. Section 24. Section 25.

^m Recueil d'Ordonnances Tome XI, p. 201.

The Safety of Employees (Woodworking Machinery) Ordinance, 1959 ⁿ	Section 19. Section 20. Section 24. Section 25.
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ⁿ Recueil d'Ordonnances Tome XII, p. 202.

SCHEDULE 4

Section 35(1)

ENACTMENTS TO BE REGARDED AS RELEVANT STATUTORY
PROVISIONS

The Explosives (Guernsey) Law, 1905^o.

The Explosives (Guernsey) (Amendment) Law, 1914^p.

The Law entitled "The Explosives (Guernsey) (Amendment) Law, 1951",
registered on the 7th February, 1952^q.

The Law entitled "Loi relative aux Huiles ou Essences Minérales ou autres
substances de la même nature, 1924", registered on the 5th April, 1925.

The Law entitled "Loi supplémentaire à la Loi relative aux Huiles ou
Essences Minérales ou autres substances de la même nature (1927)",
registered on the 16th July, 1927.

Part VI of the Law entitled "Loi ayant rapport à la Protection des Enfants et
des Jeunes Personnes (1917)"^r.

The Law entitled "Loi ayant rapport à l'Emploi de Femmes, de Jeunes
Personnes et d'Enfants", registered on the 20th November, 1926^s.

The Law entitled "The Health, Safety and Welfare of Employees Law,
1950", registered on the 22nd April, 1950.

The Poisonous Substances (Guernsey) Law, 1958^t.

^o Ordres en Conseil Vol. III, p 414 and 473.

^p Ordres en Conseil Vol. V, p. 30.

^q Ordres en Conseil Vol. XV, p. 11.

^r Ordres en Conseil Vol. V, p. 342.

^s Ordres en Conseil Vol. VIII, p. 29.

^t Ordres en Conseil Vol. XVII, p. 378.

The Public Highways Ordinance, 1967.

The Safety of Pits Ordinance, 1973^u.

NOTE

The Poisonous Substances (Guernsey) Law, 1958 has since been repealed by the Poisonous Substances (Guernsey) Law, 1994, section 5, with effect from 1st November, 1995.

^u Recueil d'Ordonnances Tome XIX, p. 101.

SCHEDULE 5
AMENDMENTS

Section 37(6)

Enactments amended	Extent of amendment
<p>The Law entitled "Loi relative aux Huiles ou Essence Minérales ou autres substances de la même nature, 1924".</p>	<p>In the section thereof entitled "Définitions" the definition of the expression "Conseil" is hereby repealed and replaced by –</p> <p style="padding-left: 40px;">"Le mot "Conseil" signifie le Conseil anglicé "the States Labour and Welfare Committee"."⁷</p>
<p>The Public Highways Ordinance, 1967.</p>	<p>(a) In section 1, the words "States Housing Authority" are hereby repealed and replaced by "States Labour and Welfare Committee",⁸</p> <p>(b) The words "the Authority" where those words occur in the Ordinance are hereby repealed and replaced by "the Committee".</p>

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

² The word "President" was previously substituted by the Transfer of Functions Ordinance, 1991, section 4, Schedule 3, paragraph 15, with effect from 31st July, 1991; the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 23, with effect from 31st October, 1996; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

³ The words "Committee for Employment & Social Security" and "President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

⁴ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 12(a), with effect from 6th May, 2004.

⁵ The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to them from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions of the Board of Industry were previously transferred to it from the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 1, Schedule 1, paragraph 24, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance. The functions of the Board of Employment, Industry and Commerce were previously transferred to it from the Labour and Welfare Committee by the Transfer of Functions Ordinance, 1991, section 2, Schedule 2, paragraph 13, with effect from 31st July, 1991, subject to the savings and transitional provisions in section 3 of the 1991 Ordinance.

⁶ The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Ordinance were previously transferred to them from the Civil Service Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁷ For subsequent amendments, see the consolidated text of the Loi relative aux Huiles ou Essence Minérales ou autres substances de la même nature, 1924.

⁸ For subsequent amendments, see the consolidated text of the Public Highways Ordinance, 1967.