

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The Animal Welfare (Guernsey) Ordinance, 2012 *

[CONSOLIDATED TEXT]

NOTE

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* No. III of 2012; as amended by the Environmental Pollution (Guernsey) (Amendment) Law, 2015 (No. XVI of 2015); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); the Animal Welfare (Prohibited Operations) (Amendment) Regulations, 2014 (G.S.I. No. 32 of 2014); the Animal Welfare (Amendment) Regulations, 2017 (G.S.I. No. 24 of 2017); the Animal Welfare (Amendment of Schedule 2) Regulations, 2018 (G.S.I. No. 7 of 2018). See also the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Police Force (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Firearms (Guernsey) (Amendment) Law, 2016 (No. IV of 2016); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

ORDINANCE

OF THE STATES OF DELIBERATION

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The Animal Welfare (Guernsey) Ordinance, 2012

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(Made on 21st February, 2012.)

The Animal Welfare (Guernsey) Ordinance, 2012

THE STATES, in pursuance of their Resolutions of the 28th February, 2003 and 1st December, 2011^a and in exercise of the powers conferred on them by sections 1 to 3 of the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008^b, and all other powers enabling them in that behalf, hereby order: –

PART I

GENERAL OFFENCES AGAINST ANIMALS

Unnecessary killing, injury, ill-treatment or suffering.

- 1.** (1) A person commits an offence if, subject to Part II –
 - (a) an act of his or a failure of his to act causes, or is likely to cause, an animal to be killed, injured, ill-treated or to suffer,
 - (b) he knew, or ought reasonably to have known, that the act, or failure to act, would cause or be likely to cause an animal to be killed, injured, ill-treated or to suffer or the act or failure to act was reckless,
 - (c) the killing, injury, ill-treatment or suffering is or would be unnecessary, and

^a Article VI of Billet d'État No. III of 2003 and Article XIV of Billet d'État No. XIX of 2011.

^b Order in Council No. XX of 2008.

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- (d) the act, or failure to act, was carried out or took place without lawful authority or reasonable excuse.

(2) An owner or occupier of land commits an offence if he knowingly permits another person to commit an offence falling within subsection (1) on that land.

(3) The considerations to which regard is to be had in determining, for the purposes of this Ordinance, whether killing, injury, ill-treatment or suffering is, or would be, unnecessary include –

- (a) whether the same, or the likelihood of the same, could reasonably have been avoided or reduced,
- (b) whether the conduct concerned was, or would be, for a legitimate purpose, for example –
 - (i) the purpose of benefiting the animal, or
 - (ii) the purpose of protecting a person, property or another animal,
- (c) whether the same was, or would be, proportionate to the purpose of the conduct concerned,
- (d) whether the conduct concerned was, or would be, in the circumstances that of a reasonably competent and humane person, and
- (e) where there is no express reference to lawful authority in the provision in question, whether the conduct

concerned was, or would be, carried out or took place, or would take place, with lawful authority.

Prohibited operations and operations without anaesthetic.

2. (1) A person commits an offence if, subject to subsections (2) and (3), he –

- (a) carries out, or causes or permits to be carried out, any operation set out in Schedule 1 on an animal, or
- (b) carries out, or causes or permits to be carried out, an operation with instruments on the sensitive tissues or bone structure of an animal without using anaesthetic.

(2) Subsection (1)(a) shall not apply to –

- (a) the rendering, in an emergency, of first aid for the purpose of saving life or relieving pain, or
- (b) the carrying out by a recognised veterinary surgeon of an operation where, in his opinion –
 - (i) disease or injury is present, and
 - (ii) the proper treatment for the disease or injury is, or includes, the operation.

(3) Subsection (1)(b) shall not apply to –

- (a) the making of injections or extractions by means of a hollow needle,

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- (b) the rendering, in an emergency, of first aid for the purpose of saving life or relieving pain,
 - (c) subject to subsections (4) and (5) –
 - (i) any operation carried out by a recognised veterinary surgeon which, by reason of its quickness or painlessness, is customarily performed without the use of an anaesthetic, or
 - (ii) any minor operation which is not, in accordance with good practice, customarily carried out by a recognised veterinary surgeon, and
 - (d) any operation carried out under, and in accordance with the terms and conditions of, a licence.
- (4) Subsection (3)(c) does not include –
- (a) the castration of a male animal, or
 - (b) the dehorning of cattle.
- (5) Subsection (3)(c) includes –
- (a) the disbudding of calves only where carried out by means of chemical cauterization applied within the first week of life, or
 - (b) the docking of lambs' tails by using a rubber ring or

other device to constrict the flow of blood to the tail only where the device is applied within the first week of life.

(6) The [Committee] may by regulations amend Schedule 1.

(7) In this section a reference to the "**use of an anaesthetic**" means the use of an anaesthetic so administered as to prevent any pain during the operation.

NOTES

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

The following Regulations have been made under section 2:

Animal Welfare (Prohibited Operations) (Amendment) Regulations, 2014;
Animal Welfare (Amendment) Regulations, 2017.

Abandonment.

3. (1) A person commits an offence if without reasonable excuse he abandons, or causes or procures the abandonment of, an animal, whether permanently or otherwise, in circumstances likely to cause it –

(a) to be killed or injured, or

(b) to suffer,

unnecessarily.

(2) For the avoidance of doubt, subsection (1) shall not apply

where a person releases, or causes or procures the release of, a captive animal back into a wild state –

- (a) after care or treatment for an injury or a disease, and
- (b) where the person has reasonable grounds to believe that the animal is being released into an environment which is suitable for the animal concerned.

(3) Where a person abandons, or causes or procures the abandonment of, an animal on land owned or occupied by another person without the consent of that owner or occupier, he is liable for –

- (a) any damage caused on that land by the animal other than that which was due wholly to the fault of the person suffering it, and
- (b) any reasonable expenses incurred in relation to the capture, housing, re-housing, transportation, treatment, other care or euthanasia of the animal.

Animal fights.

4. (1) A person commits an offence if he –

- (a) keeps, trains or conditions an animal for use in connection with an animal fight,
- (b) causes, or knowingly permits, an animal fight to take place,
- (c) takes part in an animal fight,

- (d) advertises or otherwise promotes an animal fight,
- (e) provides information about an animal fight to another person with the intention of enabling or encouraging attendance at the fight,
- (f) knowingly receives money for admission to an animal fight,
- (g) makes or accepts a bet on the outcome of an animal fight or the likelihood of anything occurring or not occurring in the course of an animal fight, or
- (h) keeps any premises for use for an animal fight.

(2) A person commits an offence if, without lawful authority or reasonable excuse, he –

- (a) possesses any equipment designed, adapted for use or used in connection with animal fighting unless that person can demonstrate that such equipment has not been and will not be used for an animal fight, or
- (b) is present at an animal fight.

(3) A person commits an offence if, without lawful authority or reasonable excuse, he –

- (a) knowingly supplies a video recording of an animal fight,

- (b) knowingly publishes a video recording of an animal fight,
 - (c) knowingly shows a video recording of an animal fight to another, or
 - (d) possesses a video recording of an animal fight, knowing it to be such a recording, with the intention of supplying it.
- (4) Subsection (3) does not apply –
- (a) in the case of paragraph (a), to the supply of a video recording for inclusion in a programme service,
 - (b) in the case of paragraph (b) or (c), to the publication or showing of a video recording by means of its inclusion in a programme service, or
 - (c) in the case of paragraph (d), by virtue of intention to supply for inclusion in a programme service.

- (5) In this section –

"programme service" has the meaning in the Communications Act 2003^c, and

"video recording" means a recording in any form from which a

^c An Act of Parliament (2003 c. 21).

moving image may by any means be reproduced and includes a video recording within the meaning of section 1(2) of the Video Recordings (Guernsey) Law, 2000^d,

(6) In this section –

- (a) references to supplying or publishing a video recording are to supplying or publishing a video recording in any manner, including, in relation to a video recording in the form of data stored electronically, by means of transmitting such data, and
- (b) references to showing a video recording are to showing a moving image reproduced from a video recording by any means.

(7) For the avoidance of doubt, nothing in this section shall make unlawful anything done by the Guernsey Police, the Guernsey Border Agency or Her Majesty's forces in the course of carrying out their functions.

Administration of poisons.

5. (1) A person commits an offence if –

- (a) he administers to, or causes to be taken by, an animal-
 - (i) a prohibited poison, or
 - (ii) a restricted poison, other than in accordance with any restrictions attached to its use, or

^d Ordres en Conseil Vol. XLI, p. 624.

- (b) without lawful authority or reasonable excuse, he administers to, or causes to be taken by, an animal –
 - (i) a restricted poison, in accordance with all restrictions attached to its use, or
 - (ii) a poison other than a restricted or prohibited poison.

(2) Where the [Committee] is satisfied that a poison cannot be administered to an animal without causing undue suffering and that other suitable and practicable methods exist, for the specific purpose for which the poison is being administered, which would not give rise to the same, it may by Order –

- (a) prohibit the use of that poison, or
- (b) restrict the use of that poison in relation to animals in any specified circumstances by way of conditions or otherwise.

(3) In this section –

"prohibited poison" means a poison the use of which is prohibited by Order under subsection (2)(a), and

"restricted poison" means a poison the use of which is restricted by Order under subsection (2)(b),

and related expressions shall be construed accordingly.

NOTE

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

Lawful poisoning or trapping etc. – measures to prevent injury of other animals.

6. (1) A person who, with lawful authority or reasonable excuse, administers a poison to an animal commits an offence if he fails to take all reasonable measures to prevent access to the poison by any other animal.

(2) A person who, with lawful authority or reasonable excuse, uses a trap or other equipment or device to kill, injure, stun, stupefy or capture an animal commits an offence if he fails to –

- (a) inspect such a trap, equipment or device at least once in every 24 hours between sunrise and sunset, and
- (b) at the same time remove any animals found in the trap, equipment or device.

(3) The offences in subsections (1) and (2) are without prejudice to any provisions of an Order or licence or other consent (however named) made or issued under the Law or any other enactment requiring –

- (a) specific measures to be taken to prevent access to poison by other animals, or
- (b) inspections of traps, equipment or other devices to be carried out at shorter intervals.

Offences against wild animals.

7. (1) A person commits an offence if, subject to Part II –
- (a) an act of his causes –
 - (i) a wild animal to be taken from the wild,
 - (ii) the taking, destruction, damage, or disturbance of a nest or eggs, roost, burrow or den of a wild animal,
 - (iii) the disturbance of a wild animal that is rearing young, or
 - (iv) the disturbance of any dependent young of a wild animal,
 - (b) he knew, or ought reasonably to have known, that the act would cause the effect in question or the act was reckless, and
 - (c) the act was carried out or occurred without lawful authority or reasonable excuse.

(2) A person commits an offence if, without lawful authority or reasonable excuse, he disturbs or harasses any wild animal with the intention of causing it distress or driving it away from a place in which it lives or which it habitually uses.

(3) A person commits an offence if he knowingly permits another person to commit an offence falling within subsection (1) or (2).

Duty of care to animals.

8. (1) The owner or keeper of an animal owes a duty of care to that animal to take such care as, in all the circumstances, is reasonable to see that the animal is free –

- (a) from thirst, hunger and malnutrition,
- (b) from discomfort,
- (c) from pain, injury and disease,
- (d) from fear and distress, and
- (e) to express normal behaviour patterns.

(2) The duty of care under subsection (1) includes providing the animal with –

- (a) a supply of fresh drinking water and food of sufficient quantity and quality to keep the animal in good health,
- (b) where appropriate, suitable shelter which is sufficient to maintain the animal in good health and such shelter must include –
 - (i) access from the shelter to water and food,
 - (ii) sufficient space for the animal to lie down or otherwise rest in comfort, and
 - (iii) where appropriate, adequate light, heat and

ventilation,

- (c) protection from injury, disease or unnecessary suffering including, where appropriate, providing timely and appropriate medical diagnosis and treatment where necessary by a recognised veterinary surgeon, and
- (d) the opportunity to express normal behaviour patterns and living conditions which are conducive to it maintaining those normal behaviour patterns.

(3) In determining what care is reasonable in all the circumstances for the purposes of subsection (1), the owner or keeper of an animal shall have particular regard to –

- (a) good practice for the care of the animal in question,
- (b) any lawful purpose for which the animal is kept,
- (c) any lawful activity carried on in relation to the animal,
- (d) the physical activity undertaken by the animal,
- (e) seasonal climatic conditions,
- (f) the life-stage of the animal, and
- (g) any special or additional dietary and nutritional requirements that may arise –
 - (i) where the animal is pregnant, brooding or

rearing young, and

(ii) from the general state of health of the animal.

(4) In this section, "**normal behaviour patterns**" means normal behaviour patterns for a domestic animal or a captive animal, as the case may be, of the kind concerned.

(5) A person commits an offence if, without reasonable excuse, he contravenes the duty of care in subsection (1).

PART II

EXCEPTIONS FROM OFFENCES IN PART I

Farming, arboriculture, building works, fishing etc.

9. (1) Sections 1 and 7 do not apply to anything done, or omitted to be done, in the circumstances set out in subsection (2).

(2) The circumstances referred to in subsection (1) are that a person accidentally –

- (a) causes, or is likely to cause, an animal to be killed, injured or to suffer,
- (b) causes an animal to be taken from the wild, or
- (c) causes any taking, destruction, damage or disturbance referred to in section 7(1)(a),

during the ordinary course of any activity referred to in subsection (3) and using the techniques, methods and equipment referred to in subsection (4) provided that all

reasonable precautions are taken to prevent any such killing, injury, suffering, taking from the wild, taking, destruction, damage or disturbance.

(3) The activities referred to in subsection (2) are farming, arboricultural or forestry activities or carrying out any building work within the meaning of the Building Regulations, 1992^e.

(4) The techniques, methods and equipment referred to in subsection (2) are those that are accepted and in common use for the activity in question.

(5) Nothing in Part I applies to anything which occurs in the normal course of fishing.

NOTE

The Building Regulations, 1992 have since been repealed by the Building Regulations, 2012, regulation 31(1), with effect from 1st July, 2012, subject to the transitional provisions and savings in regulation 32 of the 2012 Regulations.

Deliberate slaughter, killing, hunting or euthanasia of animals.

10. (1) Sections 1 and 7 do not apply to anything done, or omitted to be done, in connection with –

- (a) the slaughter or killing of any animal prescribed as food for mankind or as an animal product,
- (b) the hunting, capture or killing of any animal prescribed

^e G.S.I. No. 27 of 1992 as amended by G.S.I. No. 39 of 2006, G.S.I. No. 8 of 2008 and G.S.I. No. 88 of 2008.

as a game animal ("**game animal**"),

- (c) the euthanasia of any animal owing to illness, injury, infirmity or age,
- (d) the euthanasia of any livestock or other animal prescribed for the purposes of this paragraph which –
 - (i) is a new born animal which is surplus to requirements, or
 - (ii) is at the end of its economic life, or
- (e) the taking from the wild, capture, control or killing of any animal which is dangerous, of a dangerous species, aggressive or representing a significant risk to any person, any other animal or to property,

provided that the same are carried out in accordance with any applicable requirements of an Order made under subsection (2) or (3).

(2) The [Committee] shall by Order prescribe the methods or techniques, equipment or devices which may be used in any of the circumstances set out in subsection (1).

(3) The [Committee] may by Order prescribe such requirements or conditions as it considers necessary or expedient in relation to the slaughter, killing, hunting, euthanasia, taking from the wild, capture or control of any animal falling within subsection (1) in the circumstances set out in that subsection including those relating to –

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- (a) the welfare of such animals,
- (b) the training, qualifications, experience, competences, licensing, authorisation or approval of persons carrying out the same,
- (c) close seasons during which specified restrictions or conditions may apply to –
 - (i) the capture, taking from the wild or killing of a game animal, and
 - (ii) the possession or sale of the carcase of a game animal, and
- (d) the locations from or at which any animal may be taken from the wild or killed.

(4) A person commits an offence if he contravenes any requirement of an Order made under this section.

(5) In this section –

"a dangerous species" is a species –

- (a) which is not commonly domesticated in the British Islands, and
- (b) whose fully grown animals normally have such characteristics that –

- (i) they are likely, unless restrained, to cause severe damage, or
- (ii) any damage they may cause is likely to be severe, and

"game animal": see subsection (1)(b).

NOTES

In section 10, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Regulations have been made under section 10:

Animal Welfare (Slaughter, Killing, Euthanasia Etc.) (Prescribed Animals) Regulations, 2014;
Animal Welfare (Amendment) Regulations, 2017;
Animal Welfare (Amendment) (No. 2) Regulations, 2017.

The following Orders have been made under section 10:

Animal Welfare (Requirements for Slaughter, Killing, Euthanasia Etc.) Order, 2014;
Animal Welfare (Amendment) Order, 2017;
Animal Welfare (Amendment) (No. 2) Order, 2017.

Killing or taking etc. of injured, ill or diseased animals etc.

11. (1) Sections 1 and 7 do not apply to anything done, or omitted to be done, in connection with the deliberate killing by any person of an animal which is severely injured, ill or diseased –

- (a) in any of the circumstances set out in subsection (2),
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(b) provided that the killing is carried out using the most humane methods available in the circumstances and so as not to cause unnecessary suffering.

(2) The circumstances referred to in subsection (1) are that –

(a) the animal is so severely injured, ill or diseased that it is unlikely to respond to veterinary treatment or survive transport to a place where it can receive such treatment, and

(b) the animal cannot be –

(i) given veterinary treatment, or

(ii) euthanised (in the case of livestock or horses) –

(A) by a recognised veterinary surgeon or a licensed slaughterman, or

(B) at premises operated for, or on behalf of, the States for the slaughter of animals,

within a reasonable period of time having regard to the degree of suffering of the animal.

(3) Sections 1 and 7 do not apply to anything done, or omitted to be done, in connection with the deliberate taking from the wild, confining and keeping in captivity of a wild animal by any person in any of the circumstances set out in subsection (4).

- (4) The circumstances referred to in subsection (3) are that –
- (a) the animal is a young wild animal and –
 - (i) it reasonably appears to the person taking the animal from the wild that the animal's parents are dead, or have abandoned it, and that the animal is of an age where it cannot survive on its own,
 - (ii) the animal is taken from the wild to convey it to a place where it can be cared for or treated by a person with appropriate expertise, and
 - (iii) the person taking the animal intends that it will be, following any necessary care or treatment –
 - (A) released back into the wild, or
 - (B) transferred to an animal sanctuary or released into the wild, or
 - (b) it reasonably appears to the person taking the animal from the wild that it is –
 - (i) ill, injured or covered in oil, or
 - (ii) affected by another substance which presents a significant risk to its health or prevents it from exhibiting normal behaviour patterns,

and the animal is taken to convey it to a place for examination and, if necessary, to receive first aid or veterinary or other treatment by a recognised veterinary surgeon or other person with appropriate expertise.

(5) Nothing under the Law shall be construed as making unlawful anything done, or omitted to be done, in compliance with –

- (a) the Animal Health Ordinance, 1996^f,
- (b) the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006^g,
- (c) the Control of Birds Ordinance, 1985^h, or
- (d) any other enactment or European Union legislation relating to the prevention of the spread of diseases in animals.

(6) In this section "**animal sanctuary**" means premises at which activities falling within paragraph 1 of Schedule 2 are carried out under a licence issued by the [Committee] under section 26.

^f Recueil d'Ordonnances Tome XXVII, p. 10 as amended by Tome XXIX, p. 397, Tome XXXI pp. 260 and 567 and by G. S. I. No. 56 of 2002.

^g Recueil d'Ordonnances Tome XXXI, p. 567 as amended by Order in Council No. XIII of 2010.

^h Recueil d'Ordonnances Tome XXIII, p. 258 as amended by Recueil d'Ordonnances Tome XXXI, p. 260.

NOTE

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

Taking of wild animals for use in schools etc.

12. Section 7 does not apply to anything done, or omitted to be done, by a school or college of further education in Guernsey, in connection with the taking of an animal from the wild for the purpose of studying that animal as part of the normal curriculum of that school or college.

PART III

PROMOTION OF WELFARE

Welfare codes and guidance.

13. (1) The [Committee] may –

(a) prepare codes for the purpose of –

(i) providing such recommendations for the welfare of any animal as it considers appropriate, and

(ii) providing practical guidance in respect of any provision made under the Law, and

(b) revise any such code by revoking, varying, amending or adding to the provisions of the code in such manner as it thinks fit.

(2) The [Committee] may bring a code, or revision to a code, made under subsection (1) into operation by Order and such an Order may contain such

transitional provisions or savings as appear to it to be necessary or expedient in connection with the code or revision brought into operation.

(3) The [Committee] shall publish a code, or any revision to a code, in such manner as it considers appropriate.

(4) A person's failure to comply with a provision of a code issued under this section shall not of itself render him liable to proceedings of any kind.

(5) In any proceedings against a person for an offence under the Law –

(a) failure to comply with a relevant provision of a code issued under this section may be relied upon as tending to establish liability, and

(b) compliance with a relevant provision of such a code may be relied upon as tending to negative liability.

(6) The [Committee] may, with a view to securing the welfare of animals, issue guidance on such matters as it considers appropriate.

NOTES

In section 13, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Order has been made under section 13:

Animal Welfare (Welfare Codes) Order, 2014.

The following Code has effect as if made under section 13:

PART IV
LICENSING OF CONTROL, KILLING, TAKING ETC. OF ANIMALS

Control of pest animals

Control of pest animals.

14. (1) The [Committee] may by Order designate an animal as a pest animal where it considers it necessary or expedient to eradicate or limit the population of that animal.

(2) Where an animal is designated under subsection (1) the [Committee] shall by Order make provision as to –

- (a) the control measures which may be used to control that animal,
- (b) the persons who may carry out such measures having regard to their competence or qualifications to do so, and
- (c) the times at which, and periods within which, any control measures may be taken.

(3) The [Committee] may by Order prescribe such other requirements in relation to the carrying out of control measures on an animal designated as a pest animal as it may consider necessary or expedient.

(4) A person commits an offence if he contravenes any requirement of an Order made under this section.

NOTES

In section 14, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Orders have been made under section 14:

Animal Welfare (Designation and Control of Pest Animals) Order, 2014;
Animal Welfare (Amendment) Order, 2017.

Control of non-pest animals

Control of non-pest animals.

15. (1) The [Committee] may authorise the owner or occupier of land by licence to carry out control measures on that land to control an animal, which is not a pest animal designated under section 14(1), where the [Committee] is satisfied that any such measures are necessary or expedient for any of the purposes in subsection (2).

- (2) The purposes referred to in subsection (1) are –
- (a) to protect public health, public hygiene or public safety,
 - (b) to protect or preserve the amenity of a particular locality,
 - (c) to prevent damage to, or contamination of, any land or other property,
 - (d) to prevent significant damage to, or loss of, commercial

crops,

- (e) to prevent significant damage to the environment, or
- (f) to limit the population of the animal –
 - (i) to improve the welfare of such animal or any other species or sub-species of animal,
 - (ii) where the environment cannot sustain the current population of that animal, or
 - (iii) where the population of the animal is a significant threat to the survival of another species or sub-species of animal.

NOTE

In section 15, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Application for a licence.

16. (1) In addition to any information the [Committee] may reasonably require under section 41(1), an application for a licence under section 15 must be accompanied by –

- (a) a statement in writing signed by the applicant that he is the owner or occupier of the land, as the case may be,
- (b) where the applicant is not the owner of the land –

- (i) proof in writing, by means of a copy lease or otherwise, that he does not need the consent in writing of the owner or any other person –
 - (A) to carry out the proposed control measures on the land, or
 - (B) to allow a person to enter onto the land before such control measures are carried out to retrieve an animal subject to such measures, or
- (ii) subject to subsections (2) and (3), the written consent of the owner or other person to such entry or measures as the case may be.

(2) Where the applicant has made all reasonable enquiries to identify the owner of the land, or other person whose consent he requires under subsection (1), but has not been able to do so, the application may instead be accompanied by a statement in writing to that effect signed by the applicant.

(3) The [Committee] may, in exceptional circumstances, waive the requirement for an application to be accompanied by the written consent required under subsection (1) where it considers that it is appropriate to do so.

NOTE

In section 16, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Pre-condition to issue of licence.

17. The [Committee] must not issue a licence under section 15 unless it is satisfied –

- (a) that adequate arrangements have been made to allow any owners or keepers of animals to be subject to the control measures a reasonable opportunity to enter the land to retrieve an animal owned by them in advance of the date when control measures may commence, and
- (b) that the person who is to carry out the control measures is qualified or competent to do so.

NOTE

In section 17, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Licence terms and conditions.

18. In addition to the matters set out in section 42(4), a licence issued under section 15 must specify, by way of condition or otherwise –

- (a) the control measures that are to be carried out and the manner in which they are to be carried out,
- (b) the period during which the control measures can be carried out, including the date and time at which such period commences and expires,
- (c) where it is a person other than the licensee, the name

and address, or job title or other position, of the person carrying out the control measures on behalf of the licensee,

- (d) either numerically or by reference to a proportion of the animals found to be present, the maximum number of animals that may be subjected to the control measures, and
- (e) the manner in which any carcasses, eggs or nests must be disposed of.

Publicity for proposed control measures.

19. Where the [Committee] issues a licence under section 15 it must publish a notice in La Gazette Officielle, or in such other manner as the [Committee] thinks fit, on at least two occasions between the twenty-first and the seventh working day immediately preceding the first date on which the control measures may be taken under the licence, setting out –

- (a) the land on which the control measures are to be carried out,
- (b) the control measures that are to be carried out,
- (c) the animals to be subject to the control measures,
- (d) either numerically or by reference to a proportion of the animals found to be present, the maximum number of animals that may be subjected to the control measures,
- (e) the period during which the control measures can be

carried out, including the date and time at which such period commences and expires,

- (f) that the owner or keeper of an animal who desires to avoid that animal being subject to the control measures, must remove it from the land before the date and time that the period for carrying out the control measures commences, and
- (g) if the land is not a place to which the public normally have access, the arrangements by which owners or keepers of animals may be afforded access to the land for the purpose of removing animals owned or kept by them.

NOTE

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

Control of animals at an airport or a [public waste management site]

Control of animals at an airport or a [public waste management site].

20. (1) The [Committee] may authorise a person by licence to carry out control measures –

- (a) within the boundaries of an airport to control birds congregating within the boundaries of, or in flight over, that airport where it is satisfied such control is necessary or expedient for the safe navigation of

aircraft, or

- (b) within the boundaries of a [public waste management site] to control animals present within the boundaries of that site where it is satisfied that it is necessary or expedient to protect public health, public hygiene or public safety.

(2) In addition to the matters specified in section 42(4), a licence issued under this section must specify by way of condition or otherwise –

- (a) the control measures that are to be carried out and the manner in which they must be carried out, and
- (b) the name and address, or job title or other position, of the person carrying out the control measures.

(3) In this section "[**public waste management site**]" has the meaning in section 31(3) of the Environmental Pollution (Guernsey) Law, 2004ⁱ.

NOTES

In section 20,

the words "public waste management site" in square brackets, wherever occurring (including in the cross-heading thereto), were substituted by the Environmental Pollution (Guernsey) (Amendment) Law, 2015. section 25(2), with effect from 17th December, 2015;

the word "Committee" in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

ⁱ Order in Council No. XIII of 2004 as amended by Ordinance No. XVIII of 2010.

Meaning of control measures

Control measures.

21. In this Part "**control measures**" include –

- (a) euthanasia,
- (b) the disturbance, removal, destruction or disposal of nests and eggs,
- (c) the disturbance or destruction of dens or burrows,
- (d) trapping and relocation,
- (e) veterinary procedures or the use of veterinary medicinal products, medicated feeding stuff or other drugs, products or substances to prevent reproduction,
- (f) the removal and disposal of carcasses, eggs or nests following euthanasia or destruction, and
- (g) the methods, techniques, equipment or devices which may be used in carrying out any of the above,

but does not include the use of any poison contrary to any relevant prohibitions or restrictions on the use of poisons made by Order under section 5.

Taking etc. of wild animals

Taking etc. of wild animals for educational, scientific, research or conservation etc. purposes.

22. (1) The [Committee] may authorise a person by licence to carry out any of the following activities –

- (a) to seize or take a wild animal for any of the purposes in subsection (3),
- (b) in exceptional circumstances –
 - (i) to kill and take a wild animal, or
 - (ii) to take and keep the eggs or nests of wild birds,
- (c) to disturb a nest, egg, den, burrow or roost of a wild animal, or
- (d) to carry out such other activities as it considers appropriate in relation to a wild animal,

where it is satisfied that such activity is justifiable because of any of the benefits or interests referred to in subsection (2).

- (2) The benefits and interests referred to in subsection (1) are –
 - (a) educational, conservation, scientific or research benefits, or
 - (b) the interests of the health, viability or conservation of wild animals.

- (3) The purposes referred to in subsection (1)(a) are –
- (a) the marking, ringing, tagging, tattooing or micro-chipping of an animal, to enable an animal to be identified, using the least painful methods accepted in accordance with good practice,
 - (b) the implantation of a device into an animal to track its movements or transmit other information about it using the least painful methods accepted in accordance with good practice,
 - (c) the reading, replacing or removing of a mark, ring, tag, tattoo, micro-chip or other device referred to in paragraph (a) or (b),
 - (d) the supplying of zoological gardens, herpetaria, aquaria or public museums, or
 - (e) the study or examination of an animal in the wild or where it is to be returned to the wild.

(4) In addition to the matters set out in section 42(4), a licence issued under this section must specify, by way of condition or otherwise –

- (a) the activities authorised by the licence,
- (b) the person who may carry out such activities, and
- (c) the manner and methods which may be used to carry out such activities.

NOTE

In section 22, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

PART V

SEIZURE AND DETENTION OF STRAY ANIMALS

Seizure and detention of stray animals.

23. (1) Where an Authorised Person has reasonable grounds for believing that an animal found in a public place or on any other premises is a stray, he may –

- (a) seize and detain the animal, but, where he finds it on premises which are not in a public place, only with the consent of the owner or occupier of the premises, and
- (b) keep it detained until the owner or keeper of the animal has claimed it and paid all expenses reasonably incurred in so detaining and caring for it under this section.

(2) Where an animal is seized and detained under subsection (1) an Authorised Person must –

- (a) ensure that such an animal is properly cared for whilst it is detained, and
- (b) notify the following persons of the matters set out in subsection (3) –

- (i) any person whose name and address is inscribed, or otherwise legibly or recognisably recorded or marked, on any collar, mark, ring, tag, tattoo, micro-chip or other means of identification attached to, or marked on, the animal, and
 - (ii) any other person who is known, or reasonably suspected, by the Authorised Person to be the owner or keeper of the animal.
- (3) The matters referred to in subsection (2)(b) are that –
- (a) the animal has been seized and detained,
 - (b) the animal will be liable to be sold, otherwise disposed of or euthanised within 21 days of the date of the service of the notice unless the owner or keeper claims the animal and, subject to subsection (4), pays all expenses reasonably incurred in detaining and caring for it under this section.
- (4) An Authorised Person may waive the requirement for payment of all expenses reasonably incurred in detaining and caring for the animal before it is released to the owner or keeper if he considers that there are special circumstances to justify an immediate release of the animal before such expenses are paid.
- (5) Where any animal seized under this section has been detained –

- (a) where there is no person who must be notified under subsection (2)(b), for 21 days starting from the date of the seizure, or
- (b) where a person must be notified under subsection (2)(b), for 21 days starting from the date of the service of the notice,

and the owner or keeper has not claimed the animal and paid the expenses due under subsection (3), an Authorised Person may sell, otherwise dispose of or euthanise the animal.

(6) No animal may be sold, or otherwise disposed of under subsection (5) for use in an animal experiment activity.

(7) Notwithstanding anything in this section, an Authorised Person may arrange for an animal detained under this section to be euthanised before the expiration of the relevant period in subsection (5) where a recognised veterinary surgeon is of the opinion that it is in the interests of the animal that euthanasia is not delayed.

(8) Where an animal is released to the owner or keeper before all expenses reasonably incurred in detaining and caring for the animal under this section are paid the balance of any such sums owing may be recovered from the owner or keeper by the States as a civil debt.

(9) Where an animal –

- (a) is sold or otherwise disposed of under subsection (5) –
 - (i) the proceeds of such sale or disposal may be

used to discharge the cost of any expenses reasonably incurred under this section in detaining and caring for the animal, and

(ii) any balance –

(A) must be paid to the person who can establish, within 6 months of the date of sale or disposal, that he was the owner of the animal immediately prior to such sale or disposal, or

(B) where no person establishes he was the owner within the 6 month period under sub-paragraph (A), may be retained by the [Committee] and applied in such manner as it thinks fit, or

(b) is euthanised under subsection (5) or (7), any reasonable expenses incurred in such euthanasia may be recovered from the owner or keeper by the States as a civil debt.

(10) Where an animal is sold or otherwise disposed of under subsection (5) to a person acting in good faith, the ownership of the animal shall be vested in the recipient.

NOTE

In section 23, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Register of stray animals.

24. (1) The [Committee] shall prepare and maintain a register of –
- (a) all stray animals seized and detained under section 23 and the register must contain in relation to each animal –
 - (i) a brief description of the animal and of any collar, mark, ring, tag, tattoo, micro-chip or other means of identification attached to, or marked on, the animal,
 - (ii) the date, time and place of the animal's seizure and detention,
 - (iii) where a notification has been served under section 23(2)(b) –
 - (A) the date of service of the notification, and
 - (B) the name and address of the person on whom it was served,
 - (iv) where an animal is released to a person claiming to be its owner or keeper, the name and address of that person and the date of the release, and
 - (v) where an animal is sold, otherwise disposed of

or euthanised, brief particulars of such sale, other disposal or euthanasia of the animal, and

(b) all stray animals which finders are allowed to keep under section 25(4) and the register must contain in relation to each such animal –

(i) a brief description of the animal and of any collar, mark, ring, tag, tattoo, micro-chip or other means of identification attached to, or marked on, the animal,

(ii) the date, time and place the animal was found, and

(iii) the name and address of the finder.

(2) The register must be kept at the principal office of the [Committee], made available for inspection by the public free of charge at all reasonable times and the [Committee] must provide copies of any document or other information on the register to any person upon written request and payment of a reasonable fee.

(3) The register may be prepared and maintained in electronic form.

(4) Any particulars on the registers kept under section 1(8) and 1(9) of the Stray Dogs Ordinance, 1941^j as at the date this Part comes into force,

^j Recueil d'Ordonnances Tome IX, p. 144 as amended by Recueil d'Ordonnances Tome X, p. 315, Tome XXI, p. 286, Tome XXIV, p. 505 and Tome

relating to dogs seized and detained in the 5 years immediately preceding that date, shall be transferred on that date to the register required to be prepared and maintained under this section and shall form part of that register.

(5) Where there are separate details on both of the registers kept under the 1941 Ordinance referred to in subsection (4) relating to the same dog, such details may be amalgamated before being transferred to the new register under this section.

(6) The details referred to in subsection (1) must be kept on the register for not less than 5 years beginning with the date they are entered on the register.

NOTE

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

Duties of finders of stray animals.

25. (1) Any person other than an Authorised Person ("**a finder**") may seize and detain a stray animal provided that he complies with the conditions in subsection (2).

(2) The conditions referred to in subsection (1) are that –

- (a) the seizure and detention is carried out using the most humane methods available in the circumstances and so as not to cause unnecessary suffering,

- (b) the finder takes all reasonable measures to return the animal to –
 - (i) the person whose name and address is inscribed or otherwise legibly or recognisably recorded or marked on any collar, mark, ring, tag, tattoo, micro-chip or other means of identification attached to, or marked on, the animal, or
 - (ii) such other person who is known, or reasonably suspected, by the finder to be the owner or keeper of the animal, or
- (c) where no person falls within paragraph (b) or such person cannot after reasonable enquiry be found or refuses to take the animal, the finder takes the animal to an Authorised Person and, if required, allows the Authorised Person to take possession of the animal.

(3) Where an animal has been taken under subsection (2)(c) to an Authorised Person –

- (a) if the finder wishes to keep the animal, he shall inform the Authorised Person of this fact and of his name and address, and
- (b) if the finder does not wish to keep the animal, the Authorised Person shall, unless he has reasonable grounds to believe it is not a stray, treat it as if it had been seized and detained by him under section 23 on the date it was taken to him by the finder and sections

23(2) to (10) and 24 shall apply to such an animal accordingly.

(4) If a finder of an animal whose owner or keeper is unknown wishes to keep the animal, an Authorised Person may, in his absolute discretion and subject to subsection (5), allow the finder to keep it but without prejudice to the right of the owner to reclaim the animal within six months of the date the animal was found.

(5) Before a finder is allowed to remove an animal the Authorised Person must –

- (a) complete the details required to be contained on the register under section 24(1)(b),
- (b) make all such enquiries as he considers appropriate in the circumstances of the case to ascertain that the finder is a fit and proper person to keep the animal and that he is able to feed and care for it.

(6) For the avoidance of doubt, where a finder keeps a stray dog under subsection (4), he shall be the person who keeps the dog for the purposes of the Dog Licences (Guernsey) Law, 1969^k.

(7) Where a finder keeps an animal for a period of 6 months starting from the date it was found and the owner has not reclaimed it within that period, the finder shall become the owner of the animal.

^k Ordres en Conseil Vol. XXII, p. 296 as amended by Ordres en Conseil Vol. XXVIII, p. 50 and by Order in Council No. XXVIII of 2003. The rate of dog tax is specified by Ordinance, the current one being Recueil d'Ordonnances, Tome XXV, p. 155.

(8) A finder commits an offence if he fails, without reasonable excuse, to comply with subsection (2).

PART VI
REGULATION OF ACTIVITIES INVOLVING ANIMALS

Licensing of certain activities involving animals

Offence of carrying on activities set out in Schedule 2 without a licence.

26. (1) It is an offence for a person to carry on an activity set out in Schedule 2 except under and in accordance with the terms and conditions of a licence issued by the [Committee] under this section.

(2) Subsection (1) does not apply to an activity set out in Schedule 2 which is also an animal experiment activity.

(3) The [Committee] may by regulations amend Schedule 2.

NOTES

In section 26, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Regulations have been made under section 26:

*Animal Welfare (Amendment) Regulations, 2017;
Animal Welfare (Amendment of Schedule 2) Regulations, 2018.*

Determination of application.

27. Without prejudice to the generality of section 42(1)(b), in determining an application in relation to a licence under this Part the [Committee] may have

regard to –

- (a) the training, knowledge, experience, qualifications or competence of the persons –
 - (i) managing or carrying on the activity, or
 - (ii) in charge of, or otherwise working with, the animals,
- (b) the suitability and adequacy of the premises, facilities and equipment to be used in connection with the care, keeping and transport of the animals, and
- (c) such other matters as it considers appropriate.

NOTE

In section 27, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Licence conditions.

28. Without prejudice to the generality of section 43, a licence issued under this Part may include conditions in relation to –

- (a) the animals in relation to which the licensed activities are to be carried out,
- (b) the standard and adequacy of –
 - (i) any premises to be used in relation to the

licensed activities,

- (ii) any equipment, facilities or utilities to be provided at those premises,
- (c) the training, knowledge, experience, qualifications or competence of persons responsible for, in charge of, or otherwise working with, the animals,
- (d) ensuring the proper care and welfare of the animals, in relation to which licensed activities are to be carried out, in accordance with good practice,
- (e) ensuring that there is adequate procedural and other provision to deal with foreseeable emergencies, and
- (f) ensuring the good management of the licensed activities including requiring –
 - (i) appropriate provision for adequate insurance against foreseeable risks arising in relation to the licensed activities,
 - (ii) adequate measures for disease control, and
 - (iii) adequate record keeping relating to the animals in relation to which the licensed activities are carried on.

Regulation of other activities involving animals

Regulation of shows, exhibitions, competitions etc.

29. (1) This section does not apply in relation to the showing or exhibition of an animal in the course of, or in connection with, an activity falling within Schedule 2.

(2) A person who organises a show or competition, to which the public have access, with or without charge, commits an offence if, in the circumstances set out in subsection (3), he fails, without reasonable excuse, to –

(a) appoint a person to be responsible for the welfare of an animal during the entire time that the animal is at the show or competition ("**appointed person**"),

(b) notify the [Committee] of the name and address of the appointed person not less than 7 working days prior to the commencement of the show or competition, or

(c) display at the place where the animal is kept at the show, and in such a manner that it is readily legible by the public, the name and a telephone number of the appointed person or other contact details through which the appointed person may be contacted promptly.

(3) The circumstances referred to in subsection (2) are that –

(a) the animal is to be confined in a cage, a pen or in any other way, for the purposes of display or exhibition at that show or competition, and

- (b) the organiser of the show or competition is not satisfied that the animal will be adequately supervised by the owner or keeper of the animal or by a person authorised by the owner or keeper of the animal to do the same,

and in considering whether there is such adequate supervision the organiser must consider whether the arrangements are such as to ensure that the requirements set out in paragraphs (a) and (b) of subsection (4) will be met during the time that the animal is at the show or competition.

(4) An appointed person commits an offence if he fails, without reasonable excuse, to ensure any of the following, during the time that the animal is at the show or competition –

- (a) the animal –
 - (i) has an adequate supply of fresh water and, where appropriate, bedding,
 - (ii) is not exposed to extremes of temperature,
 - (iii) is kept so that it is secure from escape and, if kept overnight, is kept in a secure place,
 - (iv) is not pestered or tormented, or
- (b) the owner or keeper of the animal is informed immediately in the event of the animal dying, falling ill, being injured or giving birth.

(5) For the avoidance of doubt, the duty of care of the owner or

keeper of an animal under section 8, shall not be contravened where an animal is confined in a cage, a pen or in any other way, for the purposes of display or exhibition at a show or competition providing that –

- (a) it is not so confined for a period exceeding 60 hours, and
- (b) the form of confinement –
 - (i) allows the animal sufficient space to stand in a normal position, lie down, turn around and reach food and water, and
 - (ii) provides adequate ventilation.

(6) A person commits an offence if he knowingly causes or knowingly permits an animal to be entered into a show or competition where the animal falls within any of the descriptions in subsection (7).

(7) The descriptions referred to in subsection (6) are that the animal –

- (a) is ill or injured,
- (b) is likely to give birth to young animals –
 - (i) at any time within a period of 72 hours before the start of the show or competition, or
 - (ii) during the time it is to be displayed at the show or competition, or,

- (c) has given birth to young animals within 72 hours before the animal is to arrive at the show or competition.

(8) The owner or keeper of an animal commits an offence if he fails, without reasonable excuse, to remove an animal, which is being displayed at the show or competition, promptly from a show or competition in any of the circumstances set out in subsection (9).

(9) The circumstances referred to in subsection (8) are that the animal falls ill, is injured or gives birth to young animals and –

- (a) the owner or keeper of the animal, or a person authorised by him for that purpose, is supervising the animal, or
- (b) an appointed person has informed the owner or keeper of the animal promptly of the same.

(10) In this section "**a show or competition**" includes an agricultural or community show, a dog or cat show or other event in which an animal performs or is displayed for the entertainment or interest of the public.

NOTE

In section 29, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

PART VII

LICENSING OF ANIMAL EXPERIMENTS ETC.

Animal experiments.

30. (1) An "**animal experiment**" is, subject to the following provisions of this section –

- (a) an experimental or other scientific procedure involving the use of an animal which may cause the animal suffering or lasting harm,
- (b) any course of action intended or liable to result in the birth or hatching of an animal which may be, at birth or at any later stage in its development, suffering or caused lasting harm, or
- (c) any other experimental or other scientific procedure which is prescribed by Order of the [Committee].

(2) In determining whether a procedure may have the effects mentioned in subsection (1) the use of an anaesthetic or analgesic, and any procedure for rendering the animal insentient, are to be disregarded; and any of those things done to an animal for the purposes of an animal experiment is itself an animal experiment.

(3) Killing an animal is an animal experiment only if –

- (a) it is killed for experimental or other scientific use,
- (b) the place where it is killed is an establishment falling within section 31(1)(c) , and
- (c) the method, technique, equipment or device employed is not prescribed, in relation to the euthanasia or killing

of the animal in question, under section 10(2).

- (4) Nothing in this Part applies to –
- (a) the marking, ringing, tagging, tattooing or micro-chipping of an animal or the application of any other humane procedure, for the purpose of enabling an animal to be identified, using the least painful methods accepted in accordance with good practice,
 - (b) the implantation of a device into an animal to track its movements or transmit other information about it, for the purpose of scientific research, using the least painful methods accepted in accordance with good practice,
 - (c) for the avoidance of doubt, any non-experimental, recognised agricultural, fishing, veterinary or animal husbandry practice, or
 - (d) the administration of any substance or article by way of medicinal test on animals as defined in section 85(6) of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008¹ where the substance or article is administered in accordance with section 85(4) of that Law.

NOTE

¹ Order in Council No. V of 2009 as amended by Ordinance No. XXIV of 2009.

In section 30, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Offence in relation to use etc. of animals in experiments.

31. (1) A person commits an offence if he –
- (a) uses an animal in an animal experiment,
 - (b) keeps, breeds, imports, exports, sells or otherwise disposes of an animal for use in an animal experiment, or
 - (c) operates an establishment used for any of the purposes set out in paragraph (a) or (b),

except under and in accordance with the terms and conditions of a licence issued by the [Committee] under this section.

(2) A person commits an offence if he causes or permits the commission of an offence under subsection (1).

(3) Without prejudice to the generality of section 42(1)(b), in determining an application in relation to a licence under this Part the [Committee] may have regard to –

- (a) the adequacy, having regard to good practice, of the training, knowledge, experience, qualifications and level of competence of the persons carrying on, or responsible for –

- (i) animal experiments or the care of animals to be used for the same, and
 - (ii) any animal experiment activity and the care of animals in relation to which any such activity is carried on, and
- (b) the suitability and adequacy of the premises, facilities and equipment to be used in connection with –
- (i) the carrying out of animal experiments and the care of animals to be used for the same, and
 - (ii) any animal experiment activity and the care of animals in relation to which any such activity is carried on.

NOTE

In section 31, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Animals to be used for animal experiments.

32. A person commits an offence if he uses an animal in an animal experiment unless the animal originates –

- (a) directly from a person licensed under this Part to breed, sell, otherwise dispose of or import an animal for use in an animal experiment, or

- (b) from any other source, including the wild, approved in writing by the [Committee] providing that the [Committee] is satisfied that it is necessary to obtain the animal from that source to meet the objectives of the animal experiment.

NOTE

In section 32, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Pre-conditions for issue of licence.

33. (1) The [Committee] must not issue a licence under section 31(1)(a) to use an animal in an animal experiment unless it is satisfied that –

- (a) the animal experiment is to be carried out for any of the following purposes –
 - (i) the avoidance, prevention, diagnosis or treatment of –
 - (A) disease, ill-health or other abnormality, or
 - (B) the effects of the same,
 - in man, animals or plants,
 - (ii) the detection, assessment, regulation or modification of physiological conditions in

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- man, animals or plants,
- (iii) the protection of the environment,
 - (iv) scientific research,
 - (v) education and training, and
 - (vi) forensic inquiries,
- (b) the result sought cannot be obtained using a scientifically satisfactory method which –
- (i) is reasonably or practically available, and
 - (ii) does not involve the use of an animal,
- (c) where alternative animal experiments may be used, the one selected is that which –
- (i) uses the minimum number of animals,
 - (ii) causes the least suffering or lasting harm to the animals used, and
 - (iii) is the most likely to provide satisfactory results,
- for the purpose in question, and
- (d) no animal of an endangered species, other than one falling within the scope of Article 7(1) of the EU

Regulation, is to be used in the animal experiment unless –

- (i) the animal experiment is to be carried out for a purpose in paragraph (a)(i) or (ii) for the purpose of research aimed at the preservation of the species concerned, and
- (ii) there is scientific justification in that the purpose of the procedure cannot be achieved by the use of species which are not endangered species.

(2) Subsection (1)(a) includes the purpose of the production, and the quality, efficacy and safety testing, of medicinal products, veterinary medicinal products, medicated feeding stuff and other drugs, products or substances used, or to be used, for the purposes set out in that subsection.

(3) In this section –

"endangered species" means a species listed in Annex A to the EU Regulation, and

"the EU Regulation" means Council Regulation (EC) No. 338/97 of the 9th December 1996 on the protection of species of wild fauna and flora by regulating trade therein^m.

NOTE

^m O.J. L61, 3.3.1997, p.1 to which there are amendments.

In section 33, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Licence terms and conditions.

34. (1) A licence to use an animal in an animal experiment must specify the animal experiments in which an animal may be used.

(2) A licence to use an animal in an animal experiment must include conditions requiring –

- (a) any person responsible for carrying out, or taking part in, animal experiments or responsible for the care, or taking care, of animals used in such procedures, to be –
 - (i) competent to do the same and to have received appropriate training, or
 - (ii) except in the case of persons responsible for such procedures or care, directly supervised by a person who is so competent and trained,
- (b) a licensee to designate a person to be responsible for –
 - (i) the welfare, including the general care and accommodation, of animals kept for and used in animal experiments,
 - (ii) ensuring that –
 - (A) such animals do not suffer unnecessary

suffering or lasting harm, and

- (B) where suffering or lasting harm is necessary it involves the least of the same consistent with obtaining satisfactory results in the animal experiment, and
- (iii) any equipment used in connection with such animals,
- (c) a licensee to designate a recognised veterinary surgeon to be responsible for –
 - (i) the veterinary care of animals kept for and used in scientific experiments, and
 - (ii) advising on the general well-being of such animals,
- (d) that any animal kept for use in animal experiments, must be given an individual, permanent, identification mark, unless it is already so marked when it is taken into the establishment for the first time, and such identification mark must be applied –
 - (i) in the least painful manner possible, and
 - (ii) as soon as possible after the animal arrives at the establishment or, in the case of an animal bred at the establishment, as soon as possible

after it is weaned or can feed itself,

- (e) that animal experiments are carried out under general or local anaesthesia or using analgesics unless –
 - (i) anaesthesia or the use of analgesics is judged to be more traumatic to the animal than the pain caused by the procedure, or
 - (ii) anaesthesia or the use of analgesics is incompatible with the purpose of the procedure and –
 - (A) the [Committee] considers that such procedure is necessary for the purposes for which it is to be carried out, and
 - (B) the terms or conditions of the licence allow the procedure to be carried out without general or local anaesthesia or using analgesics, and
- (f) that at the end of an animal experiment an animal shall be kept alive unless, in the opinion of a recognised veterinary surgeon, it is unlikely to enjoy –
 - (i) freedom from lasting discomfort or suffering, or
 - (ii) the ability to express normal patterns of behaviour,

in which case it may be euthanised, in accordance with any applicable requirements of an Order made under section 10.

(3) A licence to keep, breed, import, export, sell or otherwise dispose of an animal for use in an animal experiment must include conditions requiring that any such animal be given an individual, permanent, identification mark, unless it is already so marked when it is first obtained by the licensee, and such identification mark must be applied –

- (a) in the least painful manner possible, and
- (b) as soon as possible after the animal arrives at the establishment or, in the case of an animal bred at the establishment, as soon as possible after it is weaned or can feed itself.

NOTE

In section 34, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Conditions which may be attached to licences.

35. Without prejudice to the generality of section 43, a licence issued under this Part may include conditions in relation to –

- (a) the animals in relation to which animal experiment activities are to be carried on,
- (b) the standard and adequacy of –

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- (i) any premises to be used in relation to animal experiment activities, or
 - (ii) any equipment, facilities or utilities to be provided at those premises,
- (c) the training, knowledge, experience, qualifications or competence of persons responsible for, in charge of, or otherwise working with, the animals in relation to which animal experiment activities are to be carried on,
- (d) ensuring the proper care and welfare of animals in relation to which animal experiment activities are to be carried out in accordance with good practice,
- (e) ensuring that there are adequate procedural and other measures to deal with foreseeable emergencies,
- (f) ensuring the good management of animal experiment activities including requiring –
- (i) appropriate provision for adequate insurance against foreseeable risks arising in relation to such activities,
 - (ii) adequate measures for disease control, and
 - (iii) adequate record keeping relating to the animals in relation to which animal experiment activities are to be carried on,

- (g) the disposal of the carcasses, or parts of carcasses, of animals used in animal experiments, and
- (h) the conduct of animal experiments.

Re-use of animals.

36. (1) Where an animal has been –

- (a) used in a series of animal experiments for a particular purpose,
- (b) given a general anaesthetic for any of those experiments, and
- (c) allowed to recover consciousness,

a person commits an offence, subject to subsection (2), if he uses that animal in a further animal experiment before it has returned to good health and well-being.

(2) A person does not commit an offence under subsection (1) where the licence to use an animal in the animal experiment in question expressly allows such further use of the animal and –

- (a) the experiment, or each experiment, for which the anaesthetic was given consisted only of surgical preparation essential for a subsequent procedure,
- (b) the anaesthetic was given solely to immobilise it, or
- (c) the animal was under general anaesthesia throughout the further experiment and was not allowed to recover

consciousness.

- (3) Where an animal has –
 - (a) been used in a series of animal experiments for a particular purpose, and
 - (b) not been given a general anaesthetic for any of those experiments,

a person commits an offence if he uses that animal in a further animal experiment before it has returned to good health and well-being, unless such further use is expressly allowed in the licence issued for the use of the animal in the animal experiment in question.

Prohibition of public displays.

37. A person commits an offence if he –
- (a) carries out an animal experiment as an exhibition to the public,
 - (b) carries out an animal experiment which is –
 - (i) broadcast on the television, radio or the internet or in any other way, or
 - (ii) recorded as a video recording, or in any other way, and offered for sale or supplied to the public,
 - (c) publishes a notice or advertisement announcing the

carrying out of an animal experiment in a manner that would contravene paragraph (a) or (b),

unless the same is expressly allowed in the licence issued under this Part for the use of the animal in the animal experiment in question.

Meaning of "animal" in this Part.

38. (1) In this Part, unless the context requires otherwise, "**animal**" means any living vertebrate except man.

(2) Any such vertebrate in its foetal, larval or embryonic form is "**living**" for the purposes of this Part –

(a) from the stage when –

(i) in the case of a mammal, bird or reptile, half the gestation or incubation period for the relevant species has elapsed, or

(ii) in any other case, it becomes capable of independent feeding, and

(b) until the permanent cessation of its circulation or the destruction of its brain.

(3) The [Committee] may from time to time by regulations made under this section –

(a) extend the definition of an animal for the purposes of this Part so as to include invertebrates of any description,

- (b) alter any stage of development specified in subsection (2)(a), and
- (c) make provision in lieu of subsection (2)(a) as respects invertebrates of any description.

NOTE

In section 38, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Interpretation of Part VII.

39. In this Part, unless the context requires otherwise –

"establishment" means any facilities for carrying out an animal experiment activity within section 31(1)(a) or (b), including mobile facilities and any building, group of buildings or other premises, whether or not enclosed or covered, and

"procedure" includes a series or combination of procedures.

PART VIII

LICENCES: GENERAL PROVISIONS

Application of Part VIII.

40. This Part applies, subject to any express provision to the contrary, in relation to any licence which may be issued under the Law.

Application for a licence.

41. (1) An application for a licence shall be –

- (a) made to the [Committee] –
 - (i) in such form and manner, and
 - (ii) accompanied by such information,

as the [Committee] shall specify in writing for the type of application in question, and

- (b) accompanied by the prescribed fee.

(2) The [Committee] is not obliged to consider an application for a licence unless the application complies with –

- (a) subsection (1) in all respects, and
- (b) any other requirements under the Law relating to the form and manner of, and the information to accompany, the application.

(3) A person may not apply for a licence to authorise an activity if he is, for the time being, disqualified –

- (a) by a disqualification order issued under section 70(2) from carrying on any activity it is necessary to carry on to perform the activity in respect of which the application is made, or
- (b) by a licence order issued under section 72 from holding a licence in respect of any activity referred to in

paragraph (a).

(4) Any licence issued to a person is invalid to the extent it authorises an activity falling within paragraph (a) or (b) of subsection (3).

NOTE

In section 41, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Determination of application.

42. (1) The [Committee] may –
- (a) upon receipt of an application in relation to a licence, request the applicant to supply such further information in writing as the [Committee] may reasonably consider necessary to determine the application in question, and
 - (b) in determining the application, consider such matters as it considers appropriate for the application in question.
- (2) The [Committee] may –
- (a) grant an application for a licence either unconditionally or subject to conditions, or
 - (b) subject to section 46, refuse an application for a licence.
- (3) The [Committee] shall notify the applicant of its decision on an application for a licence, except where section 46(1)(c) applies, as soon as possible

after it has made its decision and where the notification is of –

- (a) a grant subject to conditions, it must include the reasons for each condition imposed, and
- (b) a refusal of the application, it must include the reasons for the refusal,

and in either such case the notification must include details of the right of appeal under section 66.

- (4) A licence must specify –
 - (a) the name and address of the licensee,
 - (b) the name, where relevant, and address of the premises at which the activities authorised by the licence are to be carried on,
 - (c) the animals in relation to which the activities authorised by the licence are to be carried on,
 - (d) except for a licence under section 15 authorising the carrying out of control measures, the term of the licence, by condition or otherwise, and
 - (e) any restrictions, by condition or otherwise, as to the area in which the activities authorised by the licence can be carried on.

NOTE

In section 42, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Licence conditions.

43. Subject to any requirement under the Law for the [Committee] to attach certain conditions to a licence, the [Committee] may attach to a licence such conditions as it considers appropriate.

NOTE

In section 43, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Variation or transfer of licence.

44. (1) The [Committee] may vary the conditions of a licence by –

- (a) imposing an additional condition, or
- (b) rescinding, or altering the terms of, an existing condition,

either on application made by the holder of the licence under subsection (3) or, subject to section 46, of its own volition where it considers such variation is necessary or expedient.

(2) A licence may not be transferred except with the written consent of the [Committee].

(3) An application for the variation of the conditions, or transfer, of a licence shall be –

(a) made to the [Committee] –

(i) in such form and manner, and

(ii) accompanied by such information,

as the [Committee] shall specify in writing for the type of application in question, and

(b) accompanied by the prescribed fee.

(4) The [Committee] is not obliged to consider an application for a variation of the conditions, or transfer, of a licence unless it complies with –

(a) subsection (3) in all respects, and

(b) any other requirements under the Law relating to the form and manner of, and the information to accompany, the application.

(5) The [Committee] may, upon receipt of an application under this section, request the applicant to supply such further information in writing as the [Committee] may reasonably consider necessary to determine the application.

(6) The [Committee] shall notify the applicant of its decision on an application under this section as soon as possible after it has made its decision and where the notification is of a refusal of the application such notification must include –

- (a) the reasons for the refusal, and
- (b) details of the right of appeal under section 66.

NOTE

In section 44, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Suspension or revocation of licence.

45. The [Committee] may, subject to section 46, suspend or revoke a licence where –

- (a) there is a contravention of a term or condition of the licence,
- (b) it is satisfied that any information given for the purposes of the application in relation to a licence was in any material respect false or misleading,
- (c) it considers that it is necessary to suspend or revoke the licence to prevent the unnecessary killing, injury or suffering of an animal,
- (d) the licensee, or any person in charge of, or otherwise working with, an animal is convicted of an offence under the Law, or
- (e) the licensee or any person in charge of, or otherwise

working with, an animal is disqualified –

- (i) by a disqualification order issued under section 70(2) from carrying on any activity which it is necessary to carry on to perform the activity in respect of which the licence is issued, or
- (ii) by a licence order issued under section 72 from holding a licence in respect of any activity referred to in subparagraph (i).

NOTE

In section 45, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Notification of proposed variation, suspension, revocation or refusal of renewal of licence.

- 46.** (1) Where the [Committee] proposes to –
- (a) vary the conditions of a licence of its own volition,
 - (b) suspend or revoke a licence, or
 - (c) refuse an application for the renewal of a licence,

it must, subject to section 47, notify the licensee of the matters in subsection (2).

- (2) The matters referred to in subsection (1) are –
- (a) the proposed variation, suspension, revocation or

refusal and the reasons for the same, and

- (b) that the licensee has a period of not less than 28 days from the date of the notification to make representations in writing to the [Committee] on the proposed variation, suspension, revocation or refusal.

(3) The [Committee] must take into account any representations made by the licensee under subsection (2).

(4) Where the [Committee], having taken into account any representations made under subsection (2), decides to confirm its decision to vary the conditions of, suspend or revoke the licence or to refuse the application for the renewal of the licence, it must notify the licensee of –

- (a) such decision and the reasons for the same,
- (b) the date on which the decision will take effect which shall be a date after the expiry of the period referred to in subsection (2), and
- (c) the right of appeal under section 66.

NOTE

In section 46, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Suspension or revocation of licence in an emergency.

47. (1) Where the [Committee] considers that –

- (a) there is, or has been, a serious contravention of the conditions of the licence, and
- (b) that an urgent suspension or revocation of the licence is required in the interests of animal welfare,

it may decide to suspend or revoke the licence without first giving the licensee the opportunity to make representations in accordance with section 46(2).

(2) Where the [Committee] makes a decision under subsection (1) it must notify the licensee of –

- (a) its decision to suspend or revoke the licence and the reasons for the same,
- (b) the reasons why it considers that an urgent suspension or revocation of the licence is required in the interests of animal welfare,
- (c) the date on which the decision takes effect, which shall be no sooner than the date on which the notice is served on the licensee, and
- (d) the right of appeal under section 66.

NOTE

In section 47, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Licences: general.

48. (1) A licence shall cease to have effect –
- (a) where an activity authorised by the licence is carried on at premises specified in the licence, when the licensee ceases to carry on the activity at all such premises, or
 - (b) where none of the activities authorised by the licence have been carried on for a continuous period of more than twelve months.
- (2) A licensee may nominate a person, for the purposes of subsection (3), ("**a nominated person**") by notification to the [Committee].
- (3) In the event of the death of a licensee, where no joint licensee is surviving, and upon application of a nominated person or, where there is no nominated person, a personal representative of the licensee, the licence –
- (a) will be deemed to have been originally granted, subject to subsection (4), to the nominated person or the personal representative, as the case may be, and
 - (b) will terminate at the expiration of a period of 3 months starting from the date of the death.
- (4) The nominated person or the personal representative will not be deemed to be a licensee if he is disqualified –
- (a) by a disqualification order issued under section 70(2) from carrying on any activity which it is necessary to

carry on to perform the activity in respect of which the licence is issued, or

- (b) by a licence order issued under section 72 from holding a licence in respect of any activity referred to in paragraph (a).

(5) The [Committee] may, on the application of the nominated person or personal representative, extend the period of 3 months referred to in subsection (3)(b) if the [Committee] is satisfied that the extension is necessary and that no circumstances make it undesirable.

(6) For the avoidance of doubt, subsections (3)(b) and (5) shall not prevent the revocation or suspension of the licence by the [Committee] under section 45(a), (c), (d) or (e) or 47 before the expiry of the relevant period of validity referred to in those subsections.

(7) In this section, "**personal representative**" means –

- (a) an heir to that part of the real property of the deceased licensee which includes the premises on which the activity authorised by the licence is, at the date of death, being carried on, or
- (b) an executor, original or by representation, or an administrator for the time being of the personal property of the deceased licensee.

NOTE

In section 48, the word "Committee" in square brackets, wherever occurring,

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

Contravention of terms or conditions of licence.

49. A licensee commits an offence if he contravenes the terms or conditions of a licence.

Register of licences.

50. (1) The [Committee] shall prepare and maintain a register of licences issued under the Law containing, subject to subsection (3) –

- (a) in relation to every application for a licence, a copy of the application,
- (b) in relation to any refusal of a licence application, a copy of the notification of the refusal, and
- (c) in relation to every licence issued –
 - (i) a copy of any notification of a decision to grant the licence subject to conditions,
 - (ii) a copy of the licence, and
 - (iii) a copy of any notification of a decision to vary the conditions of, transfer, suspend or revoke the licence.

(2) The register may contain such other documents and information in relation to licences issued under the Law as the [Committee] considers

appropriate and may be prepared and maintained in electronic form.

(3) The [Committee] may withhold any information from the register if it considers that it is appropriate to do so having regard to the need to preserve commercial confidentiality.

(4) The register must be kept at the principal office of the [Committee], made available for inspection by the public free of charge at all reasonable times and the details and documents referred to in subsections (1) and (2) must be kept on the register for not less than 10 years beginning with the date on which they are entered on the register.

(5) The [Committee] must provide copies of any document or other information on the register to any person upon written request and payment of a reasonable fee.

NOTE

In section 50, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

PART IX
ENFORCEMENT

Civil notices

Improvement notice procedure.

51. (1) If it appears to the [Committee] that an owner or keeper of an animal is contravening the duty of care under section 8, whether evidenced by a contravention of a code issued under section 13 or otherwise, it may serve on that

owner or keeper a notice under this section (an "**improvement notice**").

- (2) An improvement notice must –
 - (a) state that it appears to the [Committee] that there is a contravention of section 8,
 - (b) specify the matters constituting the contravention, including any relevant contravention of a code issued under section 13,
 - (c) specify the steps that must be taken to comply with section 8,
 - (d) specify a period for the taking of those steps,
 - (e) state that a person who fails to comply with the notice commits an offence under section 53(3), and
 - (f) state that there is a right of appeal against the notice under section 66.

NOTE

In section 51, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Compliance notice procedure.

52. (1) If it appears to the [Committee] that a licensee is contravening any term or condition of a licence, it may serve on that licensee a notice under this

section (a "**compliance notice**").

- (2) A compliance notice must –
- (a) state that it appears to the [Committee] that there is a contravention of the terms or conditions of the licence,
 - (b) specify the matters constituting the contravention,
 - (c) specify the steps that must be taken to remedy the contravention,
 - (d) specify a period for the taking of those steps,
 - (e) state that a person who fails to comply with the notice commits an offence under section 53(3), and
 - (f) state that there is a right of appeal against the notice under section 66.

NOTE

In section 52, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Notices: withdrawal etc. and contravention.

- 53.** (1) The [Committee] may at any time –
- (a) withdraw an improvement notice or a compliance notice, or

- (b) waive or relax any requirement of an improvement notice or a compliance notice,

issued by it and, if the [Committee] does so, it must notify the person on whom the notice was served.

(2) The withdrawal of an improvement notice or a compliance notice does not affect the power of the [Committee] to issue a further improvement notice or compliance notice, as the case may be, in respect of the same contravention.

(3) A person on whom an improvement notice or a compliance notice has been served commits an offence if he contravenes any requirement of the notice.

NOTE

In section 53, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Simultaneous proceedings.

54. The institution of criminal proceedings under the Law does not prevent the exercise of any power, or prejudice the continuation of any proceedings, under this Part.

Powers of Authorised Persons and police officers

Authorised Persons.

55. (1) A person may be authorised in writing by the [President], or [Vice-President], of the [Committee] to perform any of the functions of an Authorised

Person under the Law.

(2) A person purporting to carry out the functions of an Authorised Person under the Law shall, upon request, produce evidence of his authority.

(3) An Authorised Person must keep a written record of any exercise of a power under section 56, 57, 58, or 60 or under a warrant issued under section 59.

(4) For the avoidance of doubt, the States Veterinary Officer may be appointed as an Authorised Person.

NOTE

In section 55, the words in, first, the first and second and, second, the third pairs of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2 and section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Powers in respect of animals in distress.

56. (1) If an Authorised Person or a police officer has reasonable grounds to suspect that an animal is suffering (whether or not as a result of an offence under the Law), he may, subject to section 58, take or arrange for the taking of such steps as reasonably appear to him to be immediately necessary to alleviate the animal's suffering.

(2) The steps referred to in subsection (1) shall include –

- (a) seizing and taking into possession the animal,
- (b) summoning the States Veterinary Officer,

- (c) causing the animal to be euthanised in the circumstances set out in subsection (4),
- (d) causing any necessary veterinary treatment to be administered to the animal, or
- (e) caring for the animal –
 - (i) at the place where it was found, or
 - (ii) at such other place as the Authorised Person or police officer considers appropriate.

(3) The steps in subsection (2) may also be taken in relation to any dependent young of the animal.

(4) An Authorised Person or a police officer may cause an animal to be euthanised, and its carcase disposed of, by the States Veterinary Officer provided that the States Veterinary Officer is satisfied that it would be cruel to keep the animal alive.

Inspection in connection with licences.

57. (1) An Authorised Person may, subject to section 58, carry out an inspection of premises to check compliance with –

- (a) the terms or conditions of a licence, or
- (b) provisions under the Law which are relevant to the carrying on of an activity to which such a licence relates.

(2) An Authorised Person may require a licensee to produce for inspection any records which he is required to keep under a licence.

(3) Where records which a person is so required to keep are stored in electronic form, the power under subsection (2) includes power to require the records to be made available for inspection in a visible and legible form or in a form from which they can readily be produced in a visible and legible form.

(4) An Authorised Person may, subject to section 58, carry out an inspection of any premises for the purpose and at the time set out in subsection (5), where –

- (a) an application has been made under the Law for a licence or a variation of the conditions, or transfer, of a licence, and
- (b) the activities authorised or proposed to be authorised by the licence are to be carried out at those premises.

(5) An inspection under subsection (4) may be carried out at any reasonable time before the determination of an application for a licence or a variation or transfer of a licence for the purpose of ascertaining whether or not that application should be granted.

Powers of entry onto premises and to stop and detain vehicles etc.

58. (1) Subject to subsections (3) and (6), an Authorised Person or a police officer may enter any premises at any reasonable time –

- (a) for the purpose of exercising his powers under section 56, or

- (b) where he has reasonable grounds to suspect that an offence under the Law has been, or is being, committed, for the purpose of investigating that offence.

(2) Subject to subsections (3) and (6), an Authorised Person may enter any premises at any reasonable time for the purpose of –

- (a) considering any application in relation to a licence, authorisation, approval or other consent (however named) made under the Law,
- (b) deciding whether and in what manner any functions of an Authorised Person or the [Committee] under the Law ought to be exercised,
- (c) carrying out an inspection under section 57,
- (d) ensuring that any requirements of a notice served under the Law have been or are being complied with, or
- (e) exercising any other function conferred on an Authorised Person or the [Committee] under the Law.

(3) The powers of entry under subsections (1) and (2) shall not be exercisable (other than in a case of emergency) –

- (a) unless the Authorised Person or the police officer gives to the owner or occupier of the premises concerned at least 24 hours' notice of his intention to enter the

premises, and

- (b) in the case of any premises, or any part of premises, used as a dwelling except under and in accordance with the authority of a warrant issued by the Bailiff under and in accordance with section 59.

(4) The powers of entry under subsections (1) and (2) include a power –

- (a) for an Authorised Person or police officer to take with him such persons, equipment and materials as he reasonably considers necessary for the purpose for which the power of entry is being exercised, and
- (b) for such persons to exercise any power that may be exercised by the Authorised Person or police officer, for the purpose for which he entered, provided that any such person is in the company, and under the supervision, of the Authorised Person or police officer exercising the power of entry.

(5) A police officer or an Authorised Person (if accompanied by a police officer in uniform) may –

- (a) stop and detain a vehicle for the purpose of the exercise of a power under any of sections 56, 57, 60 or subsections (1) or (2), and
- (b) detain that vehicle for as long as reasonably required for the exercise of the power concerned.

(6) The powers in this section do not authorise a police officer or an Authorised Person to enter any premises, or to stop and detain a vehicle, by force.

NOTE

In section 58, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Warrant to enter premises.

59. (1) If the Bailiff is satisfied by information on oath supplied by –

- (a) an Authorised Person, that there are reasonable grounds for entering any premises for any purpose for which an Authorised Person has a right to enter premises under this Part, he may grant a warrant to an Authorised Person, or
- (b) a police officer, that there are reasonable grounds for entering any premises for any purpose for which a police officer has a right to enter premises under this Part, he may grant a warrant to a police officer.

(2) A warrant granted under subsection (1) shall authorise an Authorised Person or a police officer at any time within one month of the date of the grant –

- (a) to enter the premises, and
- (b) to exercise in respect of the premises (and any animal,

carcase of an animal, equipment, substance or other thing found in or on the premises), all such powers as he may exercise under this Part,

for the purposes indicated in subsection (1).

(3) The Bailiff shall not issue a warrant under subsection (1) unless he is satisfied that any of the following four conditions is met.

(4) The first condition is that the whole of the premises is used as a dwelling and the occupier has been informed of the decision to apply for a warrant.

(5) The second condition is that any part of the premises is not used as a dwelling and that each of the following applies to the occupier of the premises –

- (a) he has been informed of the decision to seek entry to the premises and of the reasons for that decision,
- (b) he has failed to allow entry to the premises on being requested to do so by an Authorised Person or a police officer, and
- (c) he has been informed of the decision to apply for a warrant.

(6) The third condition is that –

- (a) the premises are unoccupied or the occupier is absent, and

- (b) notice of intention to apply for a warrant has been left in a conspicuous place on the premises.

(7) The fourth condition is that it is inappropriate to inform the occupier of the decision to apply for a warrant because –

- (a) it would defeat the object of entering the premises, or
- (b) entry is required as a matter of urgency.

(8) An Authorised Person or a police officer executing a warrant issued under this section may use such reasonable force as may be necessary.

(9) Sections 10 (search warrants – safeguards) and 11 (execution of warrants) of PPACEⁿ shall apply in relation to the issue of a warrant under this section to an Authorised Person as they apply in relation to the issue of a warrant to a police officer.

(10) The following additional requirements shall apply in relation to a warrant, or application for a warrant, issued or made under this section –

- (a) an application for a warrant under this section and a warrant issued under this section must identify, in so far as is practicable, any animal or carcase of an animal sought, and
- (b) the endorsement required to be made on a warrant under section 11(9) of PPACE must state whether any

ⁿ Order in Council No. XXIII of 2003 as amended by Order in Council No. XVI of 2009 and the Police Powers and Criminal Evidence (Bailiwick of Guernsey) (Amendment) Ordinance, 2011.

animals or carcasses of animals sought were found and whether any of the same, other than those which were sought, were seized.

Supplementary functions.

60. (1) This section applies to a person exercising a power under section 56, 57 or 58 or under a warrant issued under section 59.

(2) A person exercising a power to which this section applies may, where it is reasonably necessary for the purpose for which he has exercised the power

—

- (a) inspect an animal, carcase of an animal, equipment, substance or other thing (including a document or record in any form),
- (b) carry out a measurement or test on an animal, carcase of an animal, equipment, substance or other thing,
- (c) take a sample from an animal, carcase of an animal, equipment, substance or other thing,
- (d) use a mark, microchip or other method to identify an animal, carcase of an animal, equipment, substance or other thing,
- (e) take copies of a document or record (in whichever form it is held),
- (f) take a photograph of anything, or

- (g) subject to subsection (6), seize and take into possession or detain an animal, a carcase of an animal, equipment, substance or other thing which he reasonably believes to be evidence of the commission of an offence under the Law relevant to the purpose for which the power is exercised.

(3) A person who takes a sample from an animal, or carcase of an animal, under subsection (2)(c) shall give a part of the sample, or a similar sample, to the owner or keeper of the animal, if, before the sample is taken, he is requested to do so by the owner or keeper.

(4) Section 16(1) and (2) (record of thing seized) of PPACE shall apply in relation to an Authorised Person who seizes and takes into possession a carcase of an animal or other thing under subsection (2)(g) as it applies in relation to the exercise of a power of seizure by a police officer.

(5) Any animal or other thing which has been seized or taken into possession or detained in the exercise of a power under subsection (2)(g) may, subject to the following provisions of this Ordinance, be retained so long as is necessary in all the circumstances and in particular –

- (a) for use as evidence at a trial for a relevant offence,
- (b) for forensic examination or for investigation in connection with an offence, or
- (c) for use in connection with the enforcement of the requirements of a compliance notice or an improvement notice,

except that nothing may be retained for such a purpose where a photograph or a copy would be sufficient.

(6) Subsection (2)(g) does not include power to seize anything which the person exercising the power has reasonable grounds for believing to be an item subject to legal professional privilege within the meaning of section 24 of PPACE.

Supplementary provisions.

61. (1) When an Authorised Person or a police officer exercises any power under section 56 or 60(2), in relation to an animal, other than with the knowledge of the owner or keeper of the animal, he shall take all reasonable measures to notify the owner and keeper of the animal of the same including notifying them of the name and address of any place to which an animal is removed.

(2) Any expenses reasonably incurred by an Authorised Person or a police officer in consequence of acting under section 56 or 60(2) in seizing, taking into possession and caring for an animal are recoverable by the States from the owner or keeper of the animal in question as a civil debt.

Statutory powers to make requirements.

62. (1) Where an Authorised Person reasonably suspects that –
- (a) an offence under the Law has been, or is being, committed, in relation to any animal, he may require the owner or keeper of an animal to comply with any of the requirements indicated in subsection (2), or
 - (b) an offence under the Law has been, or is being, committed, in relation to any activity licensed under the Law, he may require the licensee to comply with any of

the requirements indicated in subsection (2).

- (2) The requirements for the purpose of subsection (1) are –
- (a) to make available for inspection by an Authorised Person or the States Veterinary Officer any –
 - (i) animal, or carcase of an animal, or
 - (ii) equipment, material, substance or other thing used in relation to the animal or the licensed activity,

in relation to which an Authorised Person suspects that the offence has been committed,
 - (b) to furnish an Authorised Person with such information, including records and other documents, relating to the animal or the licensed activity as the Authorised Person may reasonably require, and
 - (c) to answer such questions relating to the animal or licensed activity as the Authorised Person may reasonably ask.
- (3) Any animal, carcase of an animal, equipment, substance or other thing provided or made available to an Authorised Person or the States Veterinary Officer in compliance with a requirement under this section may be seized by an Authorised Person.
- (4) Where an animal, carcase of an animal, equipment, substance

or other thing is seized under subsection (3), the provisions of section 60(4) to (6) shall apply to such a seizure as they apply to a seizure made under section 60(2)(g).

(5) A statement made by a person in response to a requirement imposed under this section or otherwise under the Law –

(a) may be used in evidence against him in proceedings other than criminal proceedings,

(b) may not be used in evidence against him in criminal proceedings except –

(i) where evidence relating to it is adduced, or a question relating to it is asked, in the proceedings by or on behalf of that person, or

(ii) in proceedings for –

(A) an offence under section 67,

(B) some other offence where, in giving evidence, he makes a statement inconsistent with it, but the statement is only admissible to the extent necessary to establish the inconsistency,

(C) perjury, or

(D) perverting the course of justice.

Functions of a police officer under Part IX.

63. For the avoidance of doubt, the functions of a police officer under this Part are without prejudice to any other functions conferred on a police officer by law.

Orders in relation to animals in distress

Distress orders.

64. (1) The Magistrate's Court may order any of the following (a "**distress order**") in relation to an animal, or any of its dependent young, seized and taken into possession under section 56 –

- (a) that specified treatment be administered to the animal,
- (b) that possession of the animal be given up to a specified person, or
- (c) that the animal be sold, otherwise disposed of or euthanised.

(2) The power to make a distress order shall be exercisable on application by –

- (a) the owner or keeper of the animal,
- (b) the Authorised Person or police officer who seized and took the animal into possession,
- (c) the person who is for the time being caring for the animal in accordance with section 56, or
- (d) any other person appearing to the court to have a sufficient concern for the animal.

(3) Before making a distress order the Magistrate's Court must give the owner of the animal concerned an opportunity to make representations unless it is not practicable to do so.

- (4) Where the Magistrate's Court makes a distress order, it may –
- (a) appoint a person to carry out, or arrange for the carrying out, of the order,
 - (b) give directions with respect to the carrying out of the order,
 - (c) confer additional powers (including power to enter premises where the animal is being kept) for the purpose of, or in connection with, the carrying out of the order,
 - (d) order a person to reimburse the expenses of carrying out the order, or
 - (e) make such other provision as it considers appropriate in connection with the order.

(5) If the owner of the animal is subject to a liability by virtue of subsection (4)(d), any amount to which he is entitled as a result of a sale of the animal may be reduced by an amount equal to that liability.

Appeals against distress orders.

65. (1) Where the Magistrate's Court makes a distress order the owner of the animal to which the order relates may appeal against the order to the Royal

Court.

(2) The operation of a distress order is, subject to subsection (3), suspended until –

- (a) any period for an appeal against the order under subsection (1) has expired, and
- (b) if the order is the subject of an appeal under subsection (1), the appeal has been withdrawn or finally determined.

(3) Subsection (2) does not apply to the operation of any part of a distress order issued under –

- (a) section 64(1)(a), or
- (b) section 64(1)(c), ordering the euthanising of the animal,

if the Magistrate's Court directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

(4) Where the operation of an order has been suspended under subsection (2), the Magistrate's Court may give directions about how any animal to which the order applies is to be dealt with during the suspension including in particular –

- (a) appointing a person to secure that the directions are carried out,
- (b) requiring any person who has possession of the animal

to deliver it up for the purposes of the directions being carried out,

- (c) conferring powers to enable the directions to be carried out, including power to enter premises where the animal is kept, and
- (d) providing for the recovery of any expenses reasonably incurred in carrying out the directions.

(5) Where the Magistrate's Court decides on an application under section 64(2)(a) by the owner or keeper of the animal not to exercise the power conferred by subsection (1) of that section, the applicant may appeal against the decision to the Royal Court.

(6) Where the Magistrate's Court makes an order under section 64(4)(d), the person against whom the order is made may appeal against the order to the Royal Court.

(7) An appeal under subsection (5) or (6) must be made –

- (a) within a period of 21 days immediately following the date of the decision or order, as the case may be, of the Magistrate's Court, and
- (b) by notice served on all parties to the proceedings in the course of which the decision or order, as the case may be, was made,

and may be made on any ground of appeal which involves a question of law alone, a question of fact alone, or a question of mixed fact and law.

PART X

APPEALS AGAINST DECISIONS OF [COMMITTEE] ETC.

Appeals against decisions.

- 66.** (1) A person aggrieved by a decision of the [Committee] –
- (a) to refuse an application by him for a licence,
 - (b) to impose a condition on a licence granted to him,
 - (c) to vary, or refuse to vary, the conditions of a licence granted to him,
 - (d) to refuse to effect the transfer of a licence granted to him,
 - (e) to suspend or revoke a licence granted to him,
 - (f) to issue an improvement notice, or
 - (g) to issue a compliance notice,

may appeal to the Royal Court against the decision.

(2) A person aggrieved by a decision under the Law, by the [Committee] or another person, being a decision of such other description as may be specified by further Ordinance under the Law for the purposes of this section, may appeal to the Royal Court against the decision.

(3) The grounds of an appeal under this section are that –

- (a) the decision was *ultra vires* or there was some other error of law,
 - (b) the decision was unreasonable,
 - (c) the decision was made in bad faith,
 - (d) there was a lack of proportionality, or
 - (e) there was a material error as to the facts or as to the procedure.
- (4) An appeal under this section shall be instituted –
- (a) within a period of 28 days immediately following the date of the notification of the [Committee]'s or the other person's decision, as the case may be, and
 - (b) by summons served on the [President] of the [Committee] or the other person, as the case may be, stating the grounds and material facts on which the appellant relies.
- (5) The [Committee], or the other person, as the case may be, may where an appeal under this section has been instituted, apply to the Royal Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and on hearing the application the Royal Court may –
- (a) dismiss the appeal or dismiss the application (in either case on such terms and conditions as the court may

direct), or

- (b) make such other order as the Royal Court considers just,

and the provisions of this subsection are without prejudice to the inherent powers of the Royal Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007^o.

- (6) On an appeal under this section the Royal Court may –
 - (a) set the decision of the [Committee], or the other person, as the case may be, aside and, if the Royal Court considers it appropriate to do so, remit the matter to the [Committee], or the other person, with such directions as the Royal Court thinks fit, or
 - (b) confirm the decision, in whole or in part.

(7) On an appeal under this section against a decision of the [Committee] or the other person, as the case may be, the Royal Court may, on the application of the appellant, and on such terms as the Royal Court thinks just, suspend or modify the operation of the decision pending the determination of the appeal.

(8) For the purposes of an appeal under this section the Royal Court may appoint one or more assessors to assist it in the determination of any matter before it.

- (9) An appeal from a decision of the Royal Court under this

^o O.R.C. No. IV of 2007 as amended by O.R.C. No. II of 2008.

section lies to the Court of Appeal on a question of law and shall be instituted –

- (a) within a period of 14 days immediately following the date of the decision of the Royal Court, and
- (b) by notice served on all parties to the proceedings in the course of which the order was made.

NOTE

In section 66, and the heading to Part X, the words, first, "Committee" and, second, "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 5 and section 2, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, with effect from 1st May, 2016.

PART XI

GENERAL OFFENCES, SUMMARY TRIAL AND PENALTIES ETC.

General offences

False, deceptive or misleading statements and obstruction etc.

- 67.** (1) A person commits an offence if –
- (a) for the purposes of or in connection with an application under the Law,
 - (b) in purported compliance with any requirement of a licence, authorisation, approval or other consent (however named) or notice issued under the Law,
 - (c) in purported compliance with a requirement imposed

under, or otherwise for the purposes of, the Law, or

- (d) otherwise than as mentioned in paragraphs (a) to (c) but in circumstances in which he intends, or could reasonably be expected to know, that the statement, information or document provided by him would or might be used by any person for the purpose of exercising that person's functions conferred under the Law,

he does any of the following –

- (i) he makes a statement which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) he recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) he produces or furnishes, or causes or permits to be produced or furnished, any information or document which he knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) he recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information or document which is false, deceptive or misleading in a material particular.

- (2) A person who –
- (a) obstructs another person in the exercise of that other person's functions under the Law,
 - (b) fails, without reasonable excuse, to comply with a requirement imposed on him under section 62, or
 - (c) fails, without reasonable excuse, to give any person executing a warrant issued under section 59 such assistance as he may reasonably require for the execution of the warrant,

commits an offence.

(3) A person commits an offence if he obstructs a person in the exercise of any power conferred by virtue of any order of a court made under the Law.

Offences committed by bodies corporate and partnerships etc.

68. (1) Where an offence under the Law is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate commits the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

(3) Proceedings for an offence under the Law alleged to have been committed by a partnership shall be brought against the partnership in the name of the firm and not in that of the partners, but without prejudice to any liability of the partners under subsection (5).

(4) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(5) Where an offence under the Law is committed by a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner or any person purporting to act in that capacity, he as well as the partnership commits the offence and may be proceeded against and punished accordingly.

Summary trial and penalties: imprisonment or fine

Offences-summary trial and penalties-imprisonment or fine.

69. (1) An offence under this Ordinance is triable only summarily.

(2) A person who commits an offence under any of sections 1, 2, 4, 5, 7, 31, 32, 36 or 37 shall be liable on conviction to –

(a) imprisonment for a term not exceeding 12 months, or

(b) a fine not exceeding twice level 5 on the uniform scale,

or to both.

(3) A person who commits an offence under any other section of this Ordinance shall be liable on conviction to –

- (a) imprisonment for a term not exceeding 6 months, or
- (b) a fine not exceeding level 5 on the uniform scale,

or to both.

Penalties: post-conviction orders

Deprivation, disqualification and seizure orders.

70. (1) On the conviction of the owner, keeper or other person having possession of an animal –

- (a) for an offence under section 1, 2, 3, 4, 5, 7, 8, 31 or 32 in relation to that animal, or
- (b) for an offence under subsection (4), because the ownership, keeping or possession of the animal is in contravention of a disqualification order made under subsection (2),

the court by or before which the owner, keeper or other person having possession is convicted may, instead of or in addition to any other punishment, make an order depriving him of the ownership or possession (or both) of the animal (a "**deprivation order**"), and any of its dependent young, and providing for the sale, other disposal or euthanising of the animal, and such young, as it thinks fit.

(2) On the conviction of a person for an offence under section 1, 2, 3, 4, 5, 7, 8, 26, 31 or 32 or subsection (4), the court by or before which the person is convicted may, instead of or in addition to any other punishment, order that person to be disqualified, for such period as it thinks fit, from –

- (a) owning, keeping, dealing, transporting, riding, driving or working with animals,
- (b) otherwise providing any service to animals which involves taking possession of them,
- (c) otherwise being responsible for, or participating in, the care of animals, or
- (d) being party to an arrangement under which he is entitled to control or influence the way in which animals are kept or cared for,

and such an order (a "**disqualification order**") may be imposed in relation to animals generally or in relation to one or more kinds.

(3) The court may suspend the operation of a disqualification order

—

- (a) for such period as it considers necessary for enabling arrangements to be made for the keeping of the animals to which the order applies, or
- (b) pending an appeal.

(4) A person commits an offence if he contravenes a disqualification order.

(5) Where the court is satisfied that a person, who is subject to a disqualification order, owns, keeps or possesses an animal in contravention of the

order, the court may make an order (a "**seizure order**") that all animals he owns, keeps or possesses contrary to the disqualification order be taken into possession and sold, otherwise disposed of or euthanised as the court thinks fit.

(6) A seizure order may be made on application to the court by an Authorised Person or a police officer and whether or not proceedings for an offence have been taken under subsection (4).

Euthanising order.

71. On the conviction of a person for an offence under section 1, 2, 3, 4, 5, 7, 8, 31 or 32 the court by or before which he is convicted may order the euthanising of an animal (a "**euthanising order**") in relation to which the offence was committed if it is satisfied on the basis of evidence given by a recognised veterinary surgeon –

- (a) that it is appropriate to do so in the interests of the animal, or
- (b) that there are good veterinary reasons to do so.

Licence order.

72. (1) On the conviction of a person for an offence under section 1, 2, 3, 4, 5, 7, 8, 26, 31 or 32 the court by or before which the person is convicted may, instead of or in addition to any other punishment make an order (a "**licence order**") –

- (a) revoking any licence held by him under the Law, and
- (b) whether or not that person is the holder of such a licence, disqualifying him from holding any licence under the Law for such period as the court thinks fit,

and a disqualification may be imposed in relation to licences generally or to licences

of one or more kinds.

(2) A court which has made a licence order may suspend the operation of the order pending an appeal.

Termination or variation of disqualification or licence order.

73. (1) A person who is disqualified from –

- (a) doing anything falling within section 70(2) by virtue of a disqualification order, or
- (b) holding a licence by virtue of a licence order,

may, subject to subsection (4), apply to the court which made the order to terminate or vary it.

(2) On an application under subsection (1), the court may –

- (a) refuse the application,
- (b) terminate the order, or
- (c) vary the order to relax any disqualification imposed in it.

(3) In considering the application, the court must have particular regard to –

- (a) the nature of the offence in relation to which the order was made,

- (b) the character of the applicant, and
 - (c) the applicant's conduct since the order was made.
- (4) No application under subsection (1) may be made –
- (a) before the end of a period of twelve months beginning with the date on which the order is made, or
 - (b) where a previous application under subsection (1) has been made in relation to the same order, before the end of a period of twelve months beginning with the date on which the previous application was determined.

Forfeiture of equipment used in offences.

74. (1) On the conviction of a person for an offence under section 1, 2, 4, 5, 7, 10, 14, 31, 32, 36 or 37, the court by or before which he is convicted may order (a "**forfeiture order**") any qualifying item which is shown to the satisfaction of the court to relate to the offence to be –

- (a) forfeited, and
 - (b) destroyed or dealt with in such manner as may be specified in the order.
- (2) The reference in subsection (1) to any "**qualifying item**" is –
- (a) in the case of conviction for an offence under section 1, to anything designed or adapted for killing, injuring, ill-treating or causing suffering to an animal,

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- (b) in the case of conviction for an offence under section 2, to anything designed or adapted for carrying out an operation falling within section 2(1) on an animal,
- (c) in the case of a conviction for an offence under section 4, to anything designed or adapted for use in connection with an animal fight,
- (d) in the case of conviction for an offence under section 5, to anything designed or adapted for administering a poison to an animal,
- (e) in the case of a conviction for an offence under section 7, to anything designed or adapted for use to –
 - (i) take a wild animal from the wild, or
 - (ii) take, destroy, damage or disturb a nest, egg, roost, burrow or den of a wild animal, or
- (f) in the case of a conviction for an offence under section 10, to –
 - (i) any equipment or device which is designed or adapted for use, to slaughter, kill, hunt, euthanise, take from the wild, capture or control an animal, or
 - (ii) any carcase of an animal falling within section 10(1),

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- (g) in the case of a conviction for an offence under section 14(4), to any equipment or device designed or adapted for use, to carry out control measures, and
- (h) in the case of a conviction for an offence –
 - (i) under section 31, to anything designed or adapted –
 - (A) for use on an animal in an animal experiment, or
 - (B) to keep or breed an animal for use in an animal experiment, or
 - (ii) under section 32, 36 or 37(a), to anything designed or adapted for use on an animal in an animal experiment, and
 - (iii) under section 37(b) or (c), to a video recording or any other equipment or device on which an animal experiment has been recorded and to a notice or advertisement of an animal experiment.

(3) The court shall not make a forfeiture order under subsection (1), where a person claiming to be the owner of the qualifying item or otherwise interested in it applies to be heard by the court, unless that person has been given an opportunity to show cause why the order should not be made.

(4) An expression used in any of paragraphs (a) to (h) of

subsection (2) has the same meaning as in the provision referred to in that subsection.

(5) This section is without prejudice to the provisions of the Police Property and Forfeiture (Bailiwick of Guernsey) Law, 2006^P.

Post-conviction orders: supplementary provisions.

75. (1) Before making a deprivation order, a seizure order or a euthanising order the court must give the owner of the animal concerned an opportunity to make representations unless it is not practicable to do so.

(2) Subsection (1) does not apply in relation to a euthanising order if the court by which the order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

(3) Where a court makes a deprivation order, seizure order or euthanising order, it may –

- (a) appoint a person to carry out or arrange for the carrying out of the order,
- (b) require any person who has possession of an animal to which the order applies to deliver it up to enable the order to be carried out,
- (c) give directions with respect to the carrying out of the order,
- (d) confer additional powers (including power to enter premises where an animal to which the order applies is

^P Order in Council No. XXII of 2007.

being kept) for the purpose of, or in connection with, the carrying out of the order,

- (e) order the offender to reimburse the expenses of carrying out the order, or
- (f) make such other provision as it considers appropriate in connection with the order.

(4) If the owner of the animal is subject to a liability by virtue of subsection (3)(e), any amount to which he is entitled as a result of a sale of the animal may be reduced by an amount equal to that liability.

Appeals against orders.

76. (1) A deprivation order, disqualification order, licence order or forfeiture order is to be treated as a sentence for the purposes of –

- (a) the Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988^q, and
- (b) the Court of Appeal (Guernsey) Law, 1961^r.

(2) Where a deprivation order or a seizure order is made in respect of an animal, other than one owned by the offender, the owner of the animal may appeal against the order to the Royal Court.

(3) Where a seizure order is made the disqualified person by reference to whom the seizure order is made may appeal against the order to the

^q Ordres en Conseil Vol. XXXI, p. 83.

^r Ordres en Conseil Vol. XVIII, p. 315.

Royal Court.

(4) Where a euthanising order is made in respect of an animal, each of the offender and, if different, the owner of the animal may appeal against the order to the Royal Court.

(5) The operation of any deprivation order, euthanising order, seizure order or forfeiture order is, subject to subsection (6), suspended until –

- (a) any period for an appeal against the order has expired,
- (b) the period for an appeal against the conviction to which the order relates has expired, and
- (c) any appeal against the order or that conviction has been withdrawn or finally determined.

(6) Subsections (4) and (5) do not apply if the court by which a euthanising order is made directs that it is appropriate in the interests of the animal that the carrying out of the order should not be delayed.

(7) Where the operation of an order has been suspended under subsection (5), the court which made the order may make an order under this subsection (an "**interim order**") containing such provision as the court considers appropriate in relation to the keeping of an animal for so long as the first mentioned order remains suspended including, in particular –

- (a) authorising the animal to be taken into possession and removed to a place of safety,
- (b) appointing a person to secure that the interim order is

carried out,

- (c) conferring powers to enable the interim order to be carried out, including power to enter premises where the animal is kept, and
- (d) providing for the recovery of any expenses reasonably incurred in carrying out the interim order from the offender.

(8) Where the operation of a deprivation order is suspended under subsection (5), a person commits an offence if he sells or otherwise parts with an animal to which the order applies.

(9) An appeal under subsection (2), (3) or (4) must be made –

- (a) within a period of 21 days immediately following the date of the order, and
- (b) by notice served on all parties to the proceedings in the course of which the order was made,

and may be made on any ground of appeal which involves a question of law alone, a question of fact alone, or a question of mixed fact and law.

PART XII

MISCELLANEOUS PROVISIONS

Appeals against certain decisions of the Royal Court.

77. (1) An appeal from a decision of the Royal Court on an appeal under section 65(1), (5) or (6) or 76(2), (3) or (4) shall lie to the Court of Appeal on a

question of law and shall be instituted –

- (a) within a period of 14 days immediately following the date of the decision of the Royal Court, and
- (b) by notice served on all parties to the proceedings in the course of which the order was made.

(2) The Royal Court sitting as a Full Court may by rules under this section make provision as to –

- (a) the conduct of proceedings on appeals to the Royal Court or the Court of Appeal under sections 65(1), (5) or (6), 66, 76(2), (3) or (4) and this section, and
- (b) such incidental and supplementary matters concerning such appeals and proceedings as it considers appropriate.

Service of documents.

78. (1) Any document to be given or served under, or for the purposes, of the Law may be given or served –

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) on a company, by being left at, or sent by post or transmitted to, its registered office,
- (c) on an overseas company, by being left at, or sent by

post or transmitted to, its principal or last known principal place of business in Guernsey or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,

- (d) on an unincorporated body, by being given to or served on any partner, member, manager or officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Guernsey or, if there is no such place, its principal or last known principal place of business elsewhere, or
- (e) on the [Committee] or an Authorised Person, by being left at, or sent by post or transmitted to, the principal offices of the [Committee] in Guernsey.

(2) In subsection (1) –

- (a) the expression "**by post**" means by Special Delivery post, recorded delivery service or ordinary letter post, and
- (b) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication; in which event the document shall be regarded as served when it is received.

(3) If a person notifies the [Committee] or an Authorised Person of

an address for service within Guernsey for the purposes of the Law, any document to be given to or served on him may be given or served by being left at, or sent by post or transmitted to, that address.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served –

- (a) by being published by the [Committee] in such manner and for such period as it thinks fit, or
- (b) by being published in La Gazette Officielle on two occasions falling in successive weeks,

and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) Notwithstanding the provisions of subsections (1) to (5) and (8) and any other enactment or rule of law in relation to the service of documents, no document to be given to or served on the [Committee] or an Authorised Person under or for the purposes of the Law shall be deemed to have been given or served until it is received.

(7) If a person upon whom a document is to be served under the Law is a minor or person under legal disability, the document shall be served on his guardian; and if there is no guardian, the party wishing to effect service may apply to the court for the appointment of a person to act as guardian for the purposes of the Law.

(8) A document sent by post is, unless the contrary is shown, deemed for the purposes of the Law to have been received –

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,

(b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a working day.

(9) Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(10) In this section "**document**" does not include a summons.

(11) The provisions of this section are subject to any contrary provision under the Law.

NOTES

In section 78, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1) and section 1(2), with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this section to a "minor" shall be construed as a reference to a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental

responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

General provisions as to Orders, regulations and rules.

- 79.** (1) Orders, regulations and rules of court made under the Law –
- (a) may be amended or revoked by subsequent Orders, regulations or rules of court hereunder,
 - (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the [Committee] or the Royal Court to be necessary or expedient, and
 - (c) shall, in the case of Orders and regulations, be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of a new Order or regulations.
- (2) Any power conferred under the Law to make an Order, regulations or rules of court may be exercised –
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
 - (b) so as to make, as respects the cases in relation to which it is exercised –

- (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
- (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,
- (iii) any such provision either unconditionally or subject to any conditions specified in the Order, regulations or rules of court.

NOTE

In section 79, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Exclusion of liability.

80. (1) The [Committee], the States Veterinary Officer, a recognised veterinary officer and an Authorised Person are not –

- (a) liable in damages, or
- (b) in the case of an individual, personally liable in any civil proceedings,

in respect of anything done, or omitted to be done, in the discharge, or purported discharge, of their functions under the Law, unless the thing was done, or omitted to be done, in bad faith.

(2) Subsection (1) only applies to anything done, or omitted to be done, after the commencement of the provision under the Law under which the relevant function is conferred.

(3) Subsection (1) does not operate to prevent an award of damages in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000^s.

NOTE

In section 80, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Interpretation.

81. (1) In this Ordinance, unless the context requires otherwise –

"animal" means –

- (a) for the purposes of this Ordinance, except Parts VI and VII, any living vertebrate except man and any living cephalopod,
- (b) for the purposes of Part VI, any living animal except man, and
- (c) for the purposes of Part VII: see section 38,

^s Ordres en Conseil Vol. XL, p. 396 as amended by Order in Council No. I of 2005 and G.S.I. No. 27 of 2006.

and paragraphs (a) and (b) do not include any animal whilst it is in its foetal, larval or embryonic form,

"animal experiment activity" means any activity falling within paragraph (a), (b) or (c) of section 31(1),

"animal fight" means an occasion where an animal is placed with an animal, or with a human, for the purpose of fighting, wrestling or baiting,

"animal product" means any product produced or derived from an animal,

"application for the renewal of a licence" means an application for a renewal of a licence prior to the expiry of a previous licence for substantially the same activities and related expressions shall be construed accordingly,

"Authorised Person" means a person appointed as such under section 55(1),

"Bailiff" means the Bailiff, Deputy Bailiff, Judge of the Royal Court, Lieutenant-Bailiff or Juge Délégué,

"captive animal" means a wild animal that is confined by man,

"compliance notice": see section 52(1),

"contravention" includes failure to comply and related expressions shall be construed accordingly,

"Court of Appeal" means the court established by the Court of Appeal (Guernsey) Law, 1961,

"[**Committee**]" means the States [Committee for the Environment & Infrastructure],

"**deprivation order**": see section 70(1),

"**disqualification order**": see section 70(2),

"**distress order**": see section 64(1),

"**domestic animal**" means an animal –

- (a) which is of a kind commonly domesticated in the British Islands, and
- (b) which is not living in a wild state,

"**enactment**" means any Law, Ordinance or subordinate legislation,

"**euthanasia**" means killing using humane methods and related terms shall be construed accordingly,

"**euthanising order**": see section 71,

"**finally determined**" in relation to an appeal under the Law means when the appeal and any further appeal is finally determined,

"**good health**" includes good mental health,

"**Guernsey Border Agency**" means the organisation also known or referred to as "the Customs and Excise and Immigration and Nationality

Service" including –

- (a) its Chief Officer and any officer acting by or under his authority, and
- (b) any other individual working, including on a temporary basis, for such organisation whether under a contract of employment, a contract for services or otherwise,

"Guernsey Police" means the organisation also known or referred to as **"the Island Police Force"** including –

- (a) its Chief Officer and any other member of the salaried police force of the Island of Guernsey,
- (b) any member of the special constabulary of the Island of Guernsey, and
- (c) any other individual working, including on a temporary basis, for such organisations whether under a contract of employment, a contract for services or otherwise,

"horse" means a domestic animal of the equine species,

"improvement notice": see section 51(1),

"keeper" means –

- (a) a person, other than the owner of an animal, who cares for or is responsible for an animal, or

(b) a person who is the head of a household where a member of that household, who is under the age of 16

–

(i) is the owner of an animal, or

(ii) falls within paragraph (a),

"the Law" means the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008 and **"under the Law"** includes, for the avoidance of doubt, by or under the Law, this Ordinance and any other enactment made under the Law,

"lawful authority" includes –

(a) under the authority, and in accordance with the terms and conditions, of a licence, approval, authorisation, other consent (however named) or certificate issued under the Law,

(b) in accordance with any applicable requirements or functions provided for under the Law or by or under any other enactment,

(c) in accordance with any code or anything otherwise done or issued under the Law or any other enactment and any European Union legislation, and

(d) in accordance with the terms and conditions of any relevant exception under the Law,

"licence" means a licence issued under the Law,

"licence order": see section 72(1),

"licensed slaughterman" means a person licensed to slaughter the species of animal in question under section 26,

"licensee" means a person who holds a licence,

"livestock" means any animal kept for the production of food, wool, skin, fur, feathers or any other animal product or for use in the farming of land,

"Magistrate's Court" means the Magistrate's Court constituted under section 1 of the Magistrate's Court (Guernsey) Law, 2008^t,

"medicated feeding stuff" has the meaning in section 133(4) of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008,

"medicinal product" has the meaning in section 133(1) of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008,

"notice" means notice in writing,

"notify" means notify in writing and related expressions shall be construed accordingly,

"owner" in relation to land includes an usufructier,

^t Order in Council No. XVIII of 2009; as amended by Ordinance No. XXII of 2009.

"pet animal" means an animal kept by man for interest, as a hobby or for companionship,

"poison" includes –

- (a) any substance which is a **"poisonous substance"** within the meaning of any regulations made under the Poisonous Substances (Guernsey) Law, 1994^u,
- (b) any other poisonous or injurious drug, product or substance, and
- (c) any other substance which, by virtue of the quantity or manner in which it is administered or taken, has the effect of a poisonous or injurious drug, product or substance,

"police officer" means a member of the salaried police force of the Island of Guernsey and in relation to Guernsey, Herm and Jethou, and within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

"PPACE" means the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003,

"premises" includes –

^u Ordres en Conseil Vol. XXXV(1), p. 388; the current regulations made under the Law are G.S.I. No. 26 of 1995.

- (a) any land, vehicle or aircraft,
- (b) any ship within the meaning of section 294 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002^V, and
- (c) any other place (whether enclosed or not),

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

"public" includes a section of the public,

"public place" means a place to which members of the public have or are permitted to have access, whether or not for payment,

"recognised veterinary surgeon" has the meaning in section 8 of the Veterinary Surgery and Animal Welfare Ordinance, 1987^W,

"repealed enactments" means the enactments, and parts of enactments, including those listed in Schedule 4, which are repealed under the Law,

"Royal Court" means the Royal Court sitting as an Ordinary Court which, for the purposes of this Ordinance, may be validly constituted by the Bailiff sitting alone,

^V Order in Council No. VIII of 2004 to which there are amendments not relevant to this Ordinance.

^W Recueil d'Ordonnances Tome XXIV, p. 51; as amended by Ordres en Conseil Vol. XXXI, p. 278. This Ordinance is applied, with modifications, to Alderney by Alderney Ordinance No. XVIII of 1994.

"school" has the meaning in section 1(1) of the Education (Guernsey) Law, 1970^x,

"seizure order": see section 70(5),

"States" means the States of Guernsey,

"States Veterinary Officer" means the States Veterinary Officer or, if he is not available, any recognised veterinary surgeon,

"stray animal" means any domestic animal that has wandered or escaped from its normal place of confinement and is not under the supervision or control of its owner or keeper,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"suffering" means physical or mental suffering or distress and related expressions shall be construed accordingly,

"uniform scale" means the uniform scale of fines for the time being in force under the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989^y,

"unnecessary" in relation of killing, injury, ill-treatment or suffering:

^x Ordres en Conseil Vol. XXII, p. 318 to which there are amendments not relevant to this Ordinance.

^y Ordres en Conseil Vol. XXXI, p. 278; for the current scale of fines see Recueil d'Ordonnances Tome XXXI, p. 542.

see section 1(3) and related expressions shall be construed accordingly,

"vertebrate" means any animal of the Sub-phylum Vertebrata of the Phylum Chordata and "invertebrate" means any animal not of that Sub-phylum,

"veterinary medicinal product" has the meaning in section 78 of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008,

"video recording": see section 4(5),

"wild animal" means any animal, including a feral animal, which is or was, before it was killed or taken, living in a wild state,

"working day" is any day other than a Saturday, a Sunday and a non-business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law, 1958^Z,

and other expressions have the same meaning as in the Law.

(2) Any reference under the Law to any expenses reasonably incurred in seizing, detaining, taking into possession or caring for an animal or in carrying out a court order providing for the same shall, for the avoidance of doubt, be construed as including any such expenses reasonably incurred in carrying out any veterinary treatment which is given to an animal in the course of the same.

(3) Any reference in this Ordinance to an owner or occupier of premises shall be construed, where premises comprise a vehicle, ship or aircraft as

^Z Ordres en Conseil Vol. XVII, p. 384; as amended by Vol. XXIV, p. 84; and Vol. XXXIV, p. 504.

referring to the master, commander or other person in charge of the same.

(4) Any reference in this Ordinance to an enactment or to any European Union legislation is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

NOTES

In section 82, the words, first, "Committee" and, second, "Committee for the Environment & Infrastructure" in square brackets in the definition of the expression "Committee" in subsection (1) and, third, the word "Committee" in square brackets, wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 5, section 2, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2 and section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

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 the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, 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 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.

Transitional provisions and savings.

82. (1) Schedule 3, which makes transitional provisions and savings, has effect.

(2) Subject to the provisions of Schedules 3 and 4 –

(a) any reference, however expressed, in any enactment, or

part of any enactment, to any of the repealed enactments shall be construed, unless the contrary intention appears, as a reference to the corresponding provision of an enactment made under the Law, and

- (b) section 19(2) of the Interpretation (Guernsey) Law, 1948^{aa} shall, for the avoidance of doubt, apply to any subordinate legislation revoked under the Law as it applies to a Law or Ordinance repealed under the Law.

NOTE

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Consequential repeals, revocations and amendments.

83. Schedule 4, which makes consequential repeals, revocations and amendments, has effect.

Extent.

84. This Ordinance extends to the territorial waters adjacent to Guernsey.

Citation.

85. This Ordinance may be cited as the Animal Welfare (Guernsey) Ordinance, 2012.

Commencement.

86. This Ordinance shall come into force on such day as the [Committee] may by Order appoint, and different days may be so appointed for different

^{aa} Ordres en Conseil Vol. XIII, p. 355.

provisions of this Ordinance or for different purposes.

NOTES

In section 86, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The Ordinance was brought into force on 1st July, 2014 by the Animal Welfare (Guernsey) Ordinance 2012 (Commencement) Order, 2014, article 1, save for –

- (a) Part VI and Schedule 2 to the Ordinance (regulation of activities involving animals) which was brought into force on 1st July, 2014 only to the extent that they apply to the activities described in paragraph 13 of Schedule 2 to the Ordinance, and*
- (b) the transitional provisions in paragraphs 1(2) to (6) of Schedule 3 to the Ordinance, as given effect by section 82 of the Ordinance, which shall come into force on 1st July, 2014 only to the extent those paragraphs apply to (i) an animal experiment activity, and (ii) the activities described in paragraph 13 of Schedule 2 to the Ordinance.*

Section 26(3) and all other provisions in Part VI (regulation of activities involving animals) and the transitional provisions in paragraphs 1(2) to (6) of Schedule 3, as given effect by section 82, to the extent that those provisions apply to the activities described in paragraph 15 of Schedule 2, were brought into force by the Animal Welfare (Guernsey) Ordinance 2012 (Commencement) Order, 2014, article 1(1), on 15th February, 2018, subject to the provisions of article 1(2) of the 2018 Order.

SCHEDULE 1
PROHIBITED OPERATIONS

Section 2(1)(a)

The following procedures are prohibited –

- (a) freeze dagging of sheep,
- (b) short-tail docking of sheep, unless sufficient tail is retained to cover the vulva in the case of female sheep and the anus in the case of male sheep,
- (c) tongue amputation in cattle,
- (d) hot branding of cattle,
- (e) tail docking of cattle,
- (f) devoicing of cockerels,
- (g) castration of a male bird by a method involving surgery,
- (h) in relation to any animal, the amputation of the penis or other penial operations,
- (i) fitting any appliance which has the object or effect of limiting vision to a bird by a method involving the penetration or other mutilation of the nasal septum,
- (j) tail docking of a pig unless the operation is carried out by the quick and complete severance of the part of the

tail to be removed and –

- (i) the pig is less than 7 days old, and
- (ii) the operation is carried out by a recognised veterinary surgeon who is of the opinion that the operation is necessary for reasons of health or to prevent injury from the vice of tail biting,
- (k) removal of any part of the antlers of a deer before the velvet is frayed and the greater part has been shed,
- (l) removal of any bone or part of a bone from the tail of an equine animal, or the severance of any tendon or muscle in the tail of an equine animal, [...]
- [(m) ear docking, or the removal of the dew claws, of a dog,]
[...]
- [(n) tail docking of a dog unless –
 - (i) the operation is carried out by a recognised veterinary surgeon –
 - (A) on a Springer Spaniel, Cocker Spaniel or Field Spaniel or the progeny of cross breeding between any of the said breeds of Spaniel,
 - (B) when the dog is less than 7 days old, and

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- (C) who at the same time identifies the dog, by means of a microchip, as having met the requirements in this sub-item and sub-item (ii),
- (ii) the owner of such a dog is the holder of a licence issued under section 20A of the Firearms (Guernsey) Law, 1998 ("hunting permit") and he has shown the hunting permit, or a certified copy of the same, to the recognised veterinary surgeon who is to carry out the operation before the operation is carried out, and
- (iii) the recognised veterinary surgeon in question –
 - (A) certifies on a form provided for the purpose by the [Committee], that the requirements in sub-items (i) and (ii) will be met at the time the operation is carried out, and
 - (B) sends a copy of such form to the [Committee],before the operation is carried out,]
- [(o) removal of the comb, wattle or earlobes of –
 - (i) a domestic fowl of the species *Gallus gallus domesticus*, or

- (ii) a turkey of the species *Meleagris gallopavo*.]

NOTES

In Schedule 1,

first, the word omitted in square brackets immediately after paragraph (l) was repealed and, second, paragraph (m) was substituted and paragraph (n) inserted by the Animal Welfare (Prohibited Operations) (Amendment) Regulations, 2014, regulation 1, respectively paragraph (a) and paragraph (b), with effect from 1st July, 2014;

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016;

first, the word omitted in square brackets immediately after paragraph (m) was repealed and, second, paragraph (o) was inserted by the Animal Welfare (Amendment) Regulations, 2017, regulation 1, respectively paragraph (a) and paragraph (b), with effect from 30th April, 2017.

SCHEDULE 2

Section 26

ACTIVITIES REQUIRING A LICENCE

1. (1) The provision, on a regular basis, at any premises of care for five or more animals which –

- (a) are, or reasonably appear to be, ill, injured, infirm, abandoned or strays,
- (b) have reached the end of their economic lives,
- (c) are rehoused from premises that have closed or at which a business has ceased to operate,
- (d) are no longer required, or can no longer be kept, by the owner or keeper, or
- (e) have been seized with lawful authority,

other than where such care is carried out as part of the practice of a recognised veterinary surgeon.

(2) In this paragraph, "care" includes treatment, rehabilitation and accommodation (on a temporary or permanent basis).

2. The keeping of animals, in the course of a business –

- (a) wholly or mainly for the purpose of exhibition to the public at any premises to which members of the public have access, with or without charge, and

- (b) on 7 days or more in any period of 12 consecutive months.

3. The keeping or use of any animal, in the course of a business, wholly or mainly for the purpose of performing tricks or manoeuvres for reward for the entertainment of the public at a circus, public display or in any other way.

4. (1) The training or conditioning of an animal, in the course of a business, to perform an act or to display part of its natural behaviour for the purpose of such act or behaviour being displayed, or recorded and sold, to the public in any way including by –

- (a) being exhibited at a circus or other public display,
- (b) being filmed for public viewing or for sale to the public by purchase of a video recording or otherwise, or
- (c) being broadcast by television, radio or the internet or in any other way.

5. (1) The provision, in the course of a business, of accommodation for other people's animals at any premises other than where such care or accommodation is provided as part of the practice of a recognised veterinary surgeon.

(2) For the avoidance of doubt, subparagraph (1) does not include the provision of accommodation for an animal which is staying at premises with its owner or keeper.

[(3) Subparagraph (1) does not include the provision of accommodation for fewer than 5 horses.]

6. (1) The keeping of 5 or more female animals at any premises, in the course of a business, with the intention of breeding for sale.

(2) Subparagraph (1) does not include the keeping of female animals at premises in the course of the keeping and breeding for sale of livestock.

7. (1) The rearing of five or more infant or young animals, in the course of a business, at any premises, with a view to their sale.

(2) Subparagraph (1) does not include the rearing of infant or young animals at premises in the course of the keeping and breeding of livestock.

8. The keeping of fish at any premises, in the course of a business, where they are kept in confined waters and bred, hatched and reared with a view to their sale or to their transfer to other waters.

9. The keeping of animals on any premises, in the course of a business, for the production of fur, hides or feathers.

10. The keeping on any premises, in the course of a business, of five or more dogs which are used to guard persons, premises or other property for reward.

11. The keeping of horses, in the course of a business, on any premises for the purpose of their being –

(a) let out on hire for riding, or

(b) used in providing, in return for payment, instruction in riding.

12. The offering for sale of animals as pet animals, in the course of a

business, at any premises and the keeping of animals at any premises, whether or not by the person carrying on the business of selling the animals as pet animals, with a view to such sale.

13. (1) The slaughtering of animals for any purpose, the stunning of animals with a view to the same or the keeping and confinement of animals whilst awaiting such slaughter or stunning in each case –

- (a) in the course of a business, and
- (b) at any premises other than those operated for, or on behalf of, the States.

(2) Subparagraph (1) does not apply to the carrying out of such activities where the same are carried out as part of the practice of a recognised veterinary surgeon.

14. Work in connection with –

- (a) the preparation or treatment of the foot of a horse for the immediate reception of a horse shoe,
- (b) the fitting by nailing or otherwise of a horse shoe to the foot of a horse, or
- (c) the finishing off of any such work to the foot.

[**15.** (1) The artificial insemination of a bovine animal or the transplantation of embryos from the uterus of a donor mother bovine animal to the uterus of any other recipient bovine animal.

(2) In this paragraph, "**embryos**" means the fertilised and developing ova of a bovine animal.]

NOTES

In Schedule 2,

paragraph 5(3) was inserted by the Animal Welfare (Amendment) Regulations, 2017, regulation 2, with effect from 30th April, 2017;

paragraph 15 was inserted by the Animal Welfare (Amendment of Schedule 2) Regulations, 2018, regulation 1, with effect from 15th February, 2018.

SCHEDULE 3

Section 82

TRANSITIONAL PROVISIONS AND SAVINGS

Licences.

1. (1) A licence issued by the [Committee] under the Slaughter of Animals (Use of Humane Killers) Ordinance, 1948^{bb} and in force immediately before the commencement of Part VI shall be deemed to –

- (a) be a licence issued under section 26 of this Ordinance, and
- (b) comply with any provisions of this Ordinance as to the matters which must be included in the licence.

(2) Where an activity set out in subparagraph (3) is being carried on immediately before the commencement of the relevant Part of this Ordinance, such activity shall, with effect from the commencement of the relevant Part of this Ordinance, be deemed to be one in respect of which a licence has been issued under the relevant Part of this Ordinance provided that an application for a licence to carry on such an activity is made to the [Committee] –

- (a) in accordance with section 41(1), and
- (b) within three months starting from the date of the commencement of the relevant Part of this Ordinance.

(3) The activities referred to in subparagraph (2) are –

^{bb} Recueil d'Ordonnances Tome VIII, p. 21 as amended by Recueil d'Ordonnances Tome XXVII, p. 56.

- (a) an activity set out in Schedule 2 other than the slaughtering of animals for any purpose, and
 - (b) an animal experiment activity.
- (4) The deemed licence shall remain valid until –
- (a) the application to carry on the activity in question is granted by the [Committee], or
 - (b) if such an application is refused –
 - (i) the expiry of the period for appealing against the refusal under section 66,
 - (ii) where an appeal is duly instituted against the refusal, the date the appeal is finally determined or withdrawn, or
 - (iii) the expiry of a period of twelve months starting from the date of the commencement of the relevant Part of this Ordinance,

whichever is the later.

(5) For the avoidance of doubt, subparagraph (4) shall not prevent the revocation or suspension of a deemed licence by the [Committee] under section 45(c), (d) or (e) before the expiry of the period of validity referred to in that subparagraph.

(6) In this paragraph **"the relevant Part of this Ordinance"**

means –

- (a) in relation to an activity set out in Schedule 2, Part VI,
or
- (b) in relation to an animal experiment activity, Part VII.

Anything done under or for the purposes of the Stray Dogs Ordinance, 1941.

2. (1) Anything done under or for the purposes of the Stray Dogs Ordinance, 1941 before the commencement of Part V shall, to the extent that the same is required or authorised to be done under or for the purposes of Part V, have effect as if done under or for the purposes of the equivalent provision of Part V.

(2) Anything in the process of being done under or for the purposes of the Stray Dogs Ordinance, 1941 before the commencement of Part V may, to the extent that the same is required or authorised to be done under or for the purposes of Part V, be continued to be done under or for the purposes of the equivalent provision of Part V.

Authorisations and certificates under the Protection of Wild Birds Ordinance, 1949.

3. (1) An authorisation in writing issued by the [Committee] under section 3 of the Protection of Wild Birds Ordinance, 1949^{cc} and in force immediately before the commencement of Part IV shall be deemed to –

- (a) be a licence issued under section 20, and
- (b) comply with any provisions of this Ordinance as to the

^{cc} Recueil d'Ordonnances Tome IX, p. 306 as amended by Recueil d'Ordonnances Tome XIV, p. 102; Tome XIX, p. 338; Tome XXII, p.136, Tome XXIII p. 258; Tome XXXI, pp. 260 and 567.

matters which must be included in the licence.

(2) A certificate granted by the [President] of the [Committee] under section 4(1)(a) of the Protection of Wild Birds Ordinance, 1949 and in force immediately before the commencement of Part IV shall be deemed to –

- (a) be a licence issued under section 22, and
- (b) comply with any provisions of this Ordinance as to the matters which must be included in the licence.

(3) A certificate granted by the [President] of the [Committee] under section 4(1)(b) of the Protection of Wild Birds Ordinance, 1949 and in force immediately before the commencement of Part IV shall be deemed to –

- (a) be a licence issued under section 15, and
- (b) comply with any provisions of this Ordinance as to the matters which must be included in the licence.

Directions under the Control of Birds Ordinance, 1985.

4. Where a direction has been issued by the [Committee] under section 2 of the Control of Birds Ordinance, 1985 before the commencement of section 83 of this Ordinance, insofar as that section 83 applies to the repeal of parts of that 1985 Ordinance –

- (a) in the circumstances set out in section 1(a), (b) or (c) of that Ordinance, and
- (b) the action required by that direction has not yet been completed immediately before the date on which

section 83 of this Ordinance, insofar as it applies to the repeal of parts of the 1985 Ordinance, comes into force,

the provisions of the Control of Birds Ordinance, 1985 shall continue to apply in relation to that direction as if paragraphs (a) to (c) of section 1 of that Ordinance had not been repealed and as if Part IV and section 83 of this Ordinance were not in force.

Code of Recommendation under the Veterinary Surgery and Animal Welfare Ordinance, 1987.

5. The Code of Recommendations for the Welfare of Livestock^{dd} –
- (a) shall continue to have effect as it had effect immediately before the commencement of –
 - (i) Part III of this Ordinance, and
 - (ii) section 83, insofar as that section applies to the repeal of Part IV of the Veterinary Surgery and Animal Welfare Ordinance, 1987, and
 - (b) shall be deemed to have been issued under section 13(1)(a) of this Ordinance.

NOTE

In Schedule 3, the words, first, "Committee" and, second, "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 5 and section 2, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, with effect from 1st May, 2016.

dd G.S.I. No. 13 of 1995.

CONSEQUENTIAL REPEALS, REVOCATIONS AND AMENDMENTS

Repeal of Ordinances relating to protection of pigeons.

1. The Ordonnance pour la Protection des Pigeons, 1933^{ee} and the Protection of Pigeons (Amendment) Ordinance, 1985^{ff} are repealed.

Repeal of Stray Dogs Ordinances, 1941 to 1990.

2. The Stray Dogs Ordinance, 1941, the Stray Dogs (Amendment) Ordinance, 1952^{gg}, the Stray Dogs (Amendment) Ordinance, 1979^{hh}, the Stray Dogs (Amendment) Ordinance, 1988ⁱⁱ and the Stray Dogs (Amendment) Ordinance, 1990^{jj} are repealed.

Repeal of Protection of Wild Birds Ordinances, 1949 to 1981.

3. The Protection of Wild Birds Ordinance, 1949, the Protection of Wild Birds (Amendment) Ordinance, 1965^{kk}, the Protection of Wild Birds (Amendment) Ordinance, 1974^{ll} and the Protection of Wild Birds (Amendment) Ordinance, 1981^{mm} are repealed.

^{ee} Recueil d'Ordonnances Tome VIII, p. 301 as amended by Recueil d'Ordonnances Tome XXIII, p. 262.

^{ff} Recueil d'Ordonnances Tome XXIII, p. 262.

^{gg} Recueil d'Ordonnances Tome X, p. 315.

^{hh} Recueil d'Ordonnances Tome XXI, p. 286.

ⁱⁱ Recueil d'Ordonnances Tome XXIV, p. 505.

^{jj} Recueil d'Ordonnances Tome XXV, p. 144.

^{kk} Recueil d'Ordonnances Tome XIV, p. 102.

^{ll} Recueil d'Ordonnances Tome XIX, p. 338.

^{mm} Recueil d'Ordonnances Tome XXII, p. 136.

Repeal of Slaughter Ordinances.

4. The Slaughter of Animals (Use of Humane Killers) Ordinance, 1948 and the Slaughter of Livestock (Amendment) Ordinance, 1996ⁿⁿ are repealed.

Repeal of provisions of the Pests (Control of Destruction) Ordinances, 1965 and 1982.

5. (1) Sections 1 to 3, 4A, 4B and 5 of the Pests (Control of Destruction) Ordinance, 1965^{oo} are repealed.

(2) The Pests (Control of Destruction) (Amendment) Ordinance, 1982^{pp} is repealed.

Repeal of the Protection of Animals Ordinances.

6. The Protection of Animals Ordinance, 1976^{qq}, the Protection of Animals (Amendment) Ordinance, 1986^{rr} and the Protection of Animals (Amendment) Ordinance, 1992^{ss} are repealed.

Repeal of section 5 of the Summary Offences (Bailiwick of Guernsey) Law, 1982.

7. Section 5 (penalties in connection with straying animals) of the Summary Offences (Bailiwick of Guernsey) Law, 1982^{tt} is repealed insofar as it

ⁿⁿ Recueil d'Ordonnances Tome XXVII, p. 56.

^{oo} Recueil d'Ordonnances Tome XIV, p. 103 as amended by Recueil d'Ordonnances Tome XXII, p. 161.

^{pp} Recueil d'Ordonnances Tome XXII, p. 161.

^{qq} Recueil d'Ordonnances Tome XX, p. 369 as amended by Recueil d'Ordonnances Tome XXIII, p. 472.

^{rr} Recueil d'Ordonnances Tome XXIII, p. 472.

^{ss} Recueil d'Ordonnances Tome XXVI, p. 110.

^{tt} Ordres en Conseil Vol. XXVII, p. 397 to which there are amendments not

applies to Guernsey.

Repeal and amendment of provisions of the Control of Birds Ordinance, 1985.

8. (1) The Control of Birds Ordinance, 1985 is amended as follows.
- (2) In section 1 (application of Ordinance) –
 - (a) paragraphs (a) to (c) are repealed,
 - (b) for paragraph (d) substitute –
 - "(d) to prevent the spread of disease to which birds are subject and the occurrence of any resultant threat to public health, public hygiene or public safety," and
- (3) Section 7 (amendment to Ordinance of 1949) is repealed.

Repeal of provisions of the Veterinary Surgery and Animal Welfare Ordinance, 1987.

9. The following provisions of the Veterinary Surgery and Animal Welfare Ordinance, 1987 are repealed insofar as they apply to Guernsey –
 - (a) Parts I (prohibited operations) and II (use of anaesthetics),
 - (b) Part IV (welfare codes), and
 - (c) the definition of "livestock" in section 22 (interpretation).

relevant to this Ordinance.

Repeal of the Animal Experiments (Bailiwick of Guernsey) Law, 1992.

10. The Animal Experiments (Bailiwick of Guernsey) Law, 1992^{uu} is repealed insofar as it applies to Guernsey.

Repeal of the Protection of Game Ordinance, 1994.

11. The Protection of Game Ordinance, 1994^{vv} is repealed.

Repeal of the Code of Recommendations for the Welfare of Livestock at Slaughter, 1996.

12. The Code of Recommendations for the Welfare of Livestock at Slaughter^{ww} is revoked.

Amendment of the Firearms (Guernsey) Law, 1998.

13. In section 13(3) (slaughter of animals) of the Firearms (Guernsey) Law, 1998^{xx} for the definition of "licensed slaughterer" substitute –

""licensed slaughterer" means a person who is licensed to slaughter animals, or stun animals with a view to the same, under the Animal Welfare (Guernsey) Ordinance, 2012,".

Repeal of section 1 of the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005.

14. Section 1 (amendment of the Protection of Wild Birds Ordinance, 1949) of the Birds and Animal Health (Miscellaneous Provisions) (Amendment)

^{uu} Ordres en Conseil Vol. XXXIV, p. 236.

^{vv} Recueil d'Ordonnances Tome XXVI, p. 337.

^{ww} G.S.I. No. 17 of 1996.

^{xx} Ordres en Conseil Vol. XXXVIII, p. 324 as amended by Ordres en Conseil Vol. XL, p. 24.

Ordinance, 2005^{yy} is repealed.

Repeal of provisions of the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006.

15. Paragraph 1 of Schedule 4 (consequential amendments and repeals) to the Avian Influenza (Precautionary Measures) and Miscellaneous Provisions (Amendment) Ordinance, 2006 is repealed.

NOTE

In accordance with the provisions of the Firearms (Guernsey) (Amendment) Law, 2016, section 31(1), with effect from 1st November, 2017, the references in this Ordinance to the Firearms (Guernsey) Law, 1998 are to construed as referring, or including a reference, to the Firearms and Weapons (Guernsey) Law, 1998, so far as may be necessary for preserving the effect of the Ordinance.

^{yy} Recueil d'Ordonnances Tome XXXI, p. 260 as amended by Recueil d'Ordonnances Tome XXXI, p. 567.