



Jersey

# **HEALTH AND SAFETY AT WORK (JERSEY) LAW 1989**

## **Official Consolidated Version**

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# HEALTH AND SAFETY AT WORK (JERSEY) LAW 1989

## Contents

### Article

<b>PART 1</b>	<b>5</b>
INTERPRETATION AND EXCLUSION	5
1 Interpretation .....	5
2 Exclusion of application to domestic employment .....	7
<b>PART 2</b>	<b>7</b>
GENERAL DUTIES	7
3 General duties of employers to their employees .....	7
4 General duties of employees at work .....	8
5 General duties of employers and self-employed to persons other than their employees .....	9
6 General duties of persons concerned with premises to persons other than their employees .....	9
7 General duties of manufacturers and others as regards articles for use at work, fairground equipment and substances .....	10
8 Duty not to interfere with or misuse things provided pursuant to relevant statutory provisions .....	13
<b>PART 3</b>	<b>14</b>
HEALTH AND SAFETY REGULATIONS AND APPROVED CODES OF PRACTICE	14
9 Health and safety Regulations .....	14
10 Approval of codes of practice by the Minister .....	15
11 Effect of failure to observe approved codes of practice and use of codes in criminal proceedings .....	16
<b>PART 4</b>	<b>16</b>
ENFORCEMENT	16
12 Powers of inspectors .....	16
13 Improvement notices .....	18

14	Prohibition notices.....	18
15	Provisions supplementary to Articles 13 and 14 .....	19
16	Appeal against improvement or prohibition notice .....	19
17	Appeal Tribunal.....	20
<b>PART 5</b>		<b>20</b>
ENQUIRIES, OBTAINING AND DISCLOSURE OF INFORMATION		20
18	Power of Minister to direct investigations and inquiries .....	20
19	Obtaining of information by the Minister .....	21
20	Restrictions on disclosure of information .....	21
<b>PART 6</b>		<b>23</b>
PROVISIONS AS TO OFFENCES		23
21	Offences .....	23
22	Offences due to fault of other person .....	25
23	Offences by bodies corporate .....	25
24	Power of court to order cause of offence to be remedied or, in certain cases, forfeiture .....	25
25	Evidence .....	26
<b>PART 7</b>		<b>27</b>
MISCELLANEOUS		27
26	Civil liability .....	27
27	Appeals in connection with licensing provisions in the relevant statutory provisions.....	27
28	Notices, etc. ....	28
29	Savings .....	28
30	Citation.....	29
<b>SCHEDULE</b>		<b>30</b>
EXISTING STATUTORY PROVISIONS		30
<b>ENDNOTES</b>		<b>31</b>
Table of Legislation History .....		31
Table of Renumbered Provisions .....		31
Table of Endnote References .....		33



Jersey

## HEALTH AND SAFETY AT WORK (JERSEY) LAW 1989<sup>1</sup>

**A LAW** to provide for securing the health, safety and welfare of persons at work, for protecting others against risks to health or safety in connection with the activities of persons at work and in connection with the use of plant intended for the service or entertainment of the public, for controlling the possession and use of dangerous substances and for connected purposes

Commencement [[see endnotes](#)]

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### PART 1

#### INTERPRETATION AND EXCLUSION

#### 1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Appeal Tribunal” means the appeal tribunal established by virtue of Article 17;

“article for use at work” means –

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

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

“code of practice” (without prejudice to Article 10(6)) includes a standard, a specification and any other documentary form of practical guidance;

“contract of employment” means a contract of employment or apprenticeship (whether express or implied and, if express, whether oral or in writing);

“contravene” includes fail to comply;

“court” means the Inferior Number of the Royal Court or the Magistrate’s Court, as the case may be;

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

“employee” means an individual who works under a contract of employment, and related expressions shall be construed accordingly;

“existing statutory provisions” means the enactments continued in force by Article 29(2);

“health and safety Regulations” has the meaning assigned to it by Article 9;

“improvement notice” means a notice under Article 13;

“inspector” has the meaning assigned to it by Article 12;

“micro-organism” includes any microscopic biological entity which is capable of replication;

“Minister” means the Minister for Social Security;

“Order” means an Order made under Article 9(2)(g);

“personal injury” includes any disease and any impairment of a person’s physical or mental condition;

“plant” includes any machinery, equipment or appliance;

“premises” includes any place and, in particular, includes –

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

“prescribed” means prescribed by Regulations;

“prohibition notice” means a notice under Article 14;

“relevant statutory provisions” means –

- (a) the provisions of this Law and of health and safety Regulations; and
- (b) the existing statutory provisions;

“self-employed person” means an individual who works for gain or reward otherwise than under a contract of employment, whether or not the individual employs others;

“substance” means any natural or artificial substance (including micro-organisms) whether in solid or liquid form or in the form of a gas or vapour;

“substance for use at work” means any substance intended for use (whether exclusively or not) by persons at work;

“supply”, where the reference is to supplying articles or substances, means supplying them by way of sale, lease, hire or hire-purchase, whether as principal or agent for another.<sup>2</sup>

- (2) For the purposes of this Law –
- (a) “work” means work as an employee or as a self-employed person;
  - (b) an employee is at work throughout the time when he or she is in the course of his or her employment, but not otherwise;
  - (c) a self-employed person is at work throughout such time as he or she devotes to work as a self-employed person; and
  - (d) a police officer in the States of Jersey Police Force is to be taken to be an employee of the Chief Officer of that Force and is to be taken to be at work throughout the time he or she is on duty, but not otherwise,

and, subject to paragraph (3), the expressions “work” and “at work”, in whatever context, shall be construed accordingly.<sup>3</sup>

- (3) The States may by Regulations –
- (a) extend the meaning of “work” and “at work” for the purposes of this Law; and
  - (b) in that connection provide for any of the relevant statutory provisions to have effect subject to such adaptations, as may be specified in the Regulations.

## **2 Exclusion of application to domestic employment**

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

## **PART 2**

### **GENERAL DUTIES**

## **3 General duties of employers to their employees**

- (1) It shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all the employer’s employees.
- (2) Without prejudice to the generality of an employer’s duty under paragraph (1), the matters to which that duty extends include in particular –
  - (aa) the identification and assessment of risks to health and safety to which the employer’s employees are exposed at work;
  - (a) the provision and maintenance of plant and systems of work that are, so far as is reasonably practicable, safe and without risks to health;

- (b) arrangements for ensuring, so far as is reasonably practicable, safety and absence of risks to health in connection with the use, handling, storage and transport of articles and substances;
  - (c) the provision of such information, instruction, training and supervision as is necessary to ensure, so far as is reasonably practicable, the health and safety at work of the employer's employees;
  - (d) so far as is reasonably practicable as regards any place of work under the employer's control, the maintenance of it in a condition that is safe and without risks to health and the provision and maintenance of access to and egress from it that are safe and without such risks;
  - (e) the provision and maintenance of a working environment for the employer's employees that is, so far as is reasonably practicable, safe, without risks to health, and adequate as regards facilities and arrangements for their welfare at work.<sup>4</sup>
- (3) It shall be the duty of every employer employing 5 or more employees –
- (a) to prepare and, as often as may be appropriate, revise a written statement of –
    - (i) the employer's general policy with respect to the health and safety of the employer's employees,
    - (ii) the organization of responsibilities with respect to that policy,
    - (iii) the arrangements in force and measures taken by the employer to implement that policy;
  - (b) without prejudice to the generality of sub-paragraph (a)(iii), to prepare and, as often as may be appropriate, revise a written statement of –
    - (i) the significant risks identified by the employer under paragraph (2)(aa) and the employer's assessment of them,
    - (ii) any arrangements in force and any measures taken by the employer to eliminate or reduce the significant risks to health and safety identified; and
  - (c) to bring the statements and any revisions of them to the notice of the employer's employees.<sup>5</sup>
- (4) The statements required by paragraph (3) and any revisions of them shall be prepared in a language, or if necessary in more than one language, in which they will be understood by each of the employer's employees.<sup>6</sup>
- (5) The Minister may, by Order, amend the number of employees mentioned in paragraph (3).<sup>7</sup>

#### **4 General duties of employees at work**

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



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

## **5 General duties of employers and self-employed to persons other than their employees**

- (1) It shall be the duty of every employer to conduct the employer's undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his or her employment who may be affected thereby are not thereby exposed to risks to their health or safety.
- (2) It shall be the duty of every self-employed person to conduct his or her undertaking in such a way as to ensure, so far as is reasonably practicable, that he or she and other persons (not being his or her employees) who may be affected thereby are not thereby exposed to risks to their health or safety.
- (3) In such cases as may be prescribed, it shall be the duty of every employer and every self-employed person, in the prescribed circumstances and in the prescribed manner, to give to persons (not being his or her employees) who may be affected by the way in which he or she conducts his or her undertaking the prescribed information about such aspects of the way in which he or she conducts his or her undertaking as might affect the health or safety of the persons.

## **6 General duties of persons concerned with premises to persons other than their employees**

- (1) This Article has effect for imposing on persons duties in relation to those who –
  - (a) are not their employees; but
  - (b) use non-domestic premises made available to them as a place of work or as a place where they may use plant or substances provided for their use there,and applies to premises so made available and other non-domestic premises used in connection with them.
- (2) It shall be the duty of each person who has, to any extent, control of premises to which this Article applies or of the means of access thereto or egress therefrom or of any plant or substance in such premises to take such measures as it is reasonable for a person in the person's position to take to ensure, so far as is reasonably practicable, that the premises, all means of access thereto or egress therefrom available for use by persons using the premises, and any plant or substance in the premises or, as the case may be, provided for use there, is or are safe and without risks to health.

- (3) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to the –
- (a) maintenance or repair of any premises to which this Article applies or any means of access thereto or egress therefrom; or
  - (b) safety of, or the absence of risks to health arising from, plant or substances in any such premises,
- that person shall be treated, for the purposes of paragraph (2) as being a person who has control of the matters to which the person's obligation extends.
- (4) Any reference in this Article to a person having control of any premises or matter is a reference to a person having control of the premises or matter in connection with the carrying on by the person of a trade, business or other undertaking (whether for profit or not).

## **7 General duties of manufacturers and others as regards articles for use at work, fairground equipment and substances**

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

- (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on the person by sub-paragraph (a);
  - (c) to take such steps as are necessary to secure that persons supplied by that person with the article are provided with adequate information about the use for which the article is designed or has been tested and about any conditions necessary to ensure that it will be safe and without risks to health at all times when it is being used for or in connection with the entertainment of members of the public; and
  - (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such revisions of information provided to them by virtue of sub-paragraph (c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.
- (3) It shall be the duty of any person who undertakes the design or manufacture of any article for use at work or of any article of fairground equipment to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risks to health or safety to which the design or article may give rise.
- (4) It shall be the duty of any person who erects or installs any article for use at work in any premises where that article is to be used by persons at work or who erects or installs any article of fairground equipment to ensure, so far as is reasonably practicable, that nothing about the way in which the article is erected or installed makes it unsafe or a risk to health at any such time as is mentioned in paragraph (1)(a) or, as the case may be, in paragraph (1)(a) or (2).
- (5) It shall be the duty of any person who manufactures, imports or supplies any substance –
  - (a) to ensure, so far as is reasonably practicable, that the substance will be safe and without risks to health at all times when it is being used, handled, processed, stored or transported by a person at work or in premises to which Article 6 applies;
  - (b) to carry out or arrange for the carrying out of such testing and examination as may be necessary for the performance of the duty imposed on the person by sub-paragraph (a);
  - (c) to take such steps as are necessary to secure that persons supplied by that person with the substance are provided with adequate information about any risks to health or safety to which the inherent properties of the substance may give rise, about the results of any relevant tests which have been carried out on or in connection with the substance and about any conditions necessary to ensure that the substance will be safe and without risks to health at all such times as are mentioned in sub-paragraph (a) and when the substance is being disposed of; and
  - (d) to take such steps as are necessary to secure, so far as is reasonably practicable, that persons so supplied are provided with all such

revisions of information provided to them by virtue of subparagraph (c) as are necessary by reason of its becoming known that anything gives rise to a serious risk to health or safety.

- (6) It shall be the duty of any person who undertakes the manufacture of any substance to carry out or arrange for the carrying out of any necessary research with a view to the discovery and, so far as is reasonably practicable, the elimination or minimisation of any risk to health or safety to which the substance may give rise at all such times as are mentioned in paragraph (5)(a).
- (7) Nothing in this Article shall be taken to require a person to repeat any testing, examination or research which has been carried out otherwise than by the person or at the person's instance, in so far as it is reasonable for the person to rely on the results thereof for the purposes of those provisions.
- (8) Any duty imposed on any person by this Article shall extend only to things done in the course of a trade, business or other undertaking carried on by the person (whether for profit or not) and to matters within the person's control.
- (9) Where a person designs, manufactures, imports or supplies an article for use at work or an article of fairground equipment and does so for or to another on the basis of a written undertaking by that other to take specified steps sufficient to ensure, so far as is reasonably practicable, that the article will be safe and without risks to health at all such times as are mentioned in paragraph (1)(a) or, as the case may be, in paragraph (1)(a) or (2) the undertaking shall have the effect of relieving the first-mentioned person from the duty imposed by virtue of that subparagraph to such extent as is reasonable having regard to the terms of the undertaking.
- (10) Nothing in paragraph (8) or (9) shall relieve any person who imports any article or substance from any duty in respect of anything which –
  - (a) in the case of an article designed outside Jersey was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who designed the article; or
  - (b) in the case of an article or substance manufactured outside Jersey, was done by and in the course of any trade, profession or other undertaking carried on by, or was within the control of, the person who manufactured the article or substance.
- (11) Where a person (the “ostensible supplier”) supplies any article or substance to another (the “customer”) under a hire-purchase agreement, conditional sale agreement or credit-sale agreement, and the ostensible supplier –
  - (a) carries on the business of financing the acquisition of goods by others by means of such agreements; and
  - (b) in the course of that business acquired the person's interest in the article or substance supplied to the customer as a means of financing its acquisition by the customer from a third person (the “effective supplier”),

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

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

- (13) In this Article –

“article of fairground equipment” means any fairground equipment or any article designed for use as a component in any such equipment;

“credit-sale agreement” means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments;

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

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

## **8 Duty not to interfere with or misuse things provided pursuant to relevant statutory provisions**

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

## PART 3

### HEALTH AND SAFETY REGULATIONS AND APPROVED CODES OF PRACTICE

#### 9 Health and safety Regulations

- (1) The States may make Regulations (in this Law referred to as “health and safety Regulations”) for securing the health, safety and welfare of persons at work, for protecting others against risks to health or safety in connection with the activities of persons at work and in connection with the use of plant intended for the service or entertainment of the public, for controlling the possession and use of dangerous substances and generally for the purpose of carrying this Law into effect.
- (2) Without prejudice to the generality of paragraph (1) health and safety Regulations may –
  - (a) repeal or modify any of the existing statutory provisions;
  - (b) exclude or modify in relation to any specified class of case any of the provisions of Part 2 or any of the existing statutory provisions;
  - (c) make a specified authority responsible, to such extent as may be specified, for the enforcement of any of the relevant statutory provisions;
  - (d) impose requirements by reference to the approval of the Minister, an inspector or any other specified body or person;
  - (e) prohibit the carrying on of any specified activity or the doing of any specified thing, except under the authority and in accordance with the terms and conditions of a licence issued by the Minister; and may provide for the grant, renewal, variation, transfer and revocation of such licences (including the variation and revocation of conditions attached to such licences);
  - (f) provide for references in the Regulations to any specified document to operate as references to that document as revised or re-issued from time to time;
  - (g) empower the Minister –
    - (i) to make Orders with respect to any matter specified in the relevant statutory provisions, and
    - (ii) to grant exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions (either unconditionally or subject to conditions, and with or without limit of time);
  - (h) enable exemptions from any requirement or prohibition imposed by or under any of the relevant statutory provisions to be granted (either unconditionally or subject to conditions, and with or without limit of time) by any specified person or by any person authorized in that behalf by a specified authority;
  - (i) specify the persons or classes of persons who, in the event of a contravention of a requirement or prohibition imposed by or under

the Regulations, are to be guilty of an offence, whether in addition to or to the exclusion of other persons or classes of persons;

- (j) provide for any specified defence to be available in proceedings for any offence under the relevant statutory provisions either generally or in specified circumstances.<sup>8</sup>

## **10 Approval of codes of practice by the Minister**

- (1) For the purpose of providing practical guidance with respect to the requirements of any provision of –

- (a) Part 2;
- (b) health and safety Regulations; or
- (c) the existing statutory provisions;

the Minister may, after consultation with such persons as he or she considers will be affected, or representatives of such persons –

- (i) approve and issue such codes of practice as in his or her opinion are suitable for that purpose;
- (ii) approve such codes of practice issued or proposed to be issued otherwise than by the Minister as in his or her opinion are suitable for that purpose.

- (2) Where a code of practice is approved under paragraph (1), the Minister shall publish in the Jersey Gazette a notice –

- (a) identifying the code and stating the date on which approval of it by the Minister is to take effect;
- (b) specifying for which of the provisions mentioned in paragraph (1) the code is approved; and
- (c) stating where the code may be inspected.

- (3) The Minister may –

- (a) from time to time revise the whole or any part of any code of practice prepared by the Minister in pursuance of this Article;
- (b) approve any revision or proposed revision of the whole or any part of any code of practice for the time being approved under this Article,

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

- (4) The Minister may at any time withdraw his or her approval from any code of practice approved under this Article and where he or she does so the Minister shall publish in the Jersey Gazette a notice identifying the code in question and stating the date on which his or her approval of it is to cease to have effect.
- (5) References in this Law to an approved code of practice are references to that code as revised from time to time under this Article.

- (6) The power of the Minister under paragraph (1)(ii) to approve a code of practice issued or proposed to be issued otherwise than by the Minister shall include power to approve a part of such a code of practice; and in this Article and in Article 11 “code of practice” may be read as including a part of such a code of practice.

## **11 Effect of failure to observe approved codes of practice and use of codes in criminal proceedings**

- (1) A failure on the part of any person to observe any provision of an approved code of practice shall not of itself render the person liable to any civil or criminal proceedings.
- (2) Where in any criminal proceedings a party is alleged to have committed an offence by reason of a contravention of any requirement or prohibition imposed by or under such provision as is mentioned in Article 10(1) being a provision for which there was an approved code of practice at the time of the alleged contravention, paragraphs (3) and (4) shall have effect with respect to that code in relation to those proceedings.
- (3) Any provision of the code of practice which appears to the court to be relevant to the requirement or prohibition alleged to have been contravened shall be admissible in evidence in the proceedings.
- (4) If it is proved that there was at any material time a failure to observe any provision of the code which appears to the court to be relevant to any matter which it is necessary for the prosecution to prove in order to establish a contravention of that requirement or prohibition, that matter shall be taken as proved unless the court is satisfied that the requirement or prohibition was in respect of that matter complied with otherwise than by way of observance of that provision of the code.
- (5) In any criminal proceedings a code of practice which appears to the court to be the subject of a notice published by the Minister under Article 10 shall be taken to be the subject of that notice unless the contrary is proved.

## **PART 4**

### **ENFORCEMENT**

## **12 Powers of inspectors**

- (1) Any person generally or specially authorized in writing by the Minister, in that behalf (in this Law referred to as an “inspector”) may, for the purpose of the execution of any of the relevant statutory provisions and subject to the production by the person, if so required, of evidence of the person’s authority, and subject to paragraph (3), exercise the powers set out in paragraph (2).
- (2) The powers referred to in paragraph (1) are –



- (a) at any reasonable time to enter any premises which the inspector has reason to believe it is necessary to enter for the purpose mentioned in paragraph (1);
  - (b) on entering any premises by virtue of sub-paragraph (a) to take with the inspector –
    - (i) any person duly authorized by the Minister, and
    - (ii) any equipment or materials required for any purpose for which the power of entry is being exercised;
  - (c) to make such examination and investigation as may in any circumstances be necessary for the purpose mentioned in paragraph (1);
  - (d) as regards any premises which the inspector has power to enter, to direct that those premises or any part of them or anything therein, shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (e) to take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any examination or investigation under sub-paragraph (c);
  - (f) to take samples of any articles or substances found in any premises which the inspector has power to enter, and of the atmosphere in or in the vicinity of any such premises;
  - (g) to require any person whom the inspector has reasonable cause to believe to be able to give any information relevant to any examination or investigation under sub-paragraph (c) to answer (in the absence of persons other than a person nominated by him or her to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of the person's answers;
  - (h) to require the production of, inspect, and take copies of or of any entry in –
    - (i) any books or documents which by virtue of any of the relevant statutory provisions are required to be kept, and
    - (ii) any other books or documents which it is necessary for the inspector to see for the purposes of any examination or investigation under sub-paragraph (c);
  - (i) to require any person to afford the inspector such facilities and assistance with respect to any matters or things within that person's control in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on the inspector by this Article;
  - (j) any other power which is necessary for the purpose mentioned in paragraph (1).
- (3) An inspector shall not exercise any powers under this Article for the purpose of investigating a matter which is the subject of a police inquiry save in conjunction with the police officer conducting the inquiry.<sup>9</sup>

- (4) No answer given by a person in pursuance of a requirement imposed under paragraph (2)(g) shall be admissible in evidence against that person or the husband or wife or civil partner of that person in any proceedings.<sup>10</sup>
- (5) No person shall be required under this Article to answer any question or to give any evidence tending to incriminate the person.
- (6) Nothing in this Article shall be taken to compel the production by any person of a document of which the person would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in any proceedings in the Royal Court.

### **13 Improvement notices**

- (1) If an inspector is of the opinion that a person –
  - (a) is contravening one or more of the relevant statutory provisions; or
  - (b) has contravened one or more of those provisions in circumstances that make it likely that the contravention will continue or be repeated,the inspector may serve an improvement notice on the person.
- (2) An improvement notice shall –
  - (a) state that the inspector is of that opinion;
  - (b) specify the provision or provisions as to which the inspector is of that opinion;
  - (c) give particulars of the reasons why the inspector is of that opinion; and
  - (d) require that person to remedy the contravention or, as the case may be, the matters occasioning it within such period (ending not earlier than the period within which an appeal against the notice can be brought under Article 16) as may be specified in the notice.

### **14 Prohibition notices**

- (1) If an inspector is of the opinion that there is a risk of serious personal injury arising out of activities to or in relation to which any of the relevant statutory provisions apply, the inspector may serve a prohibition notice on the person carrying on the activities or under whose control the activities are being or are likely to be carried on.
- (2) A prohibition notice served pursuant to paragraph (1) shall –
  - (a) state that the inspector is of that opinion;
  - (b) specify the matters which in the inspector's opinion give or, as the case may be, will give rise to the said risk;
  - (c) where in the inspector's opinion any of those matters involves or, as the case may be, will involve a contravention of any of the relevant statutory provisions –
    - (i) state that the inspector is of that opinion,

- (ii) specify the provision or provisions as to which the inspector is of that opinion, and
  - (iii) give particulars of the reasons why the inspector is of that opinion; and
  - (d) direct that the activities to which the notice relates shall not be carried on by or under the control of the person on whom the notice is served unless the matters specified in the notice in pursuance of sub-paragraph (b) and any associated contraventions of provisions so specified in the notice in pursuance of sub-paragraph (c) have been remedied.
- (3) A direction given in pursuance of paragraph (2)(d) shall take immediate effect –
  - (a) at the end of the period specified in the notice; or
  - (b) if the notice so declares, immediately.

## **15 Provisions supplementary to Articles 13 and 14**

- (1) In this Article and in Articles 16 and 17 a “notice” means an improvement notice or a prohibition notice.
- (2) A notice may (but need not) include directions as to the measures to be taken to remedy any contravention or matter to which the notice relates.
- (3) If directions are included in a notice they may be framed –
  - (a) to any extent by reference to an approved code of practice; and
  - (b) so as to afford the person on whom the notice is served a choice between different ways of remedying the contravention or matter.
- (4) Where an improvement notice, or a prohibition notice which is not to take immediate effect, has been served –
  - (a) it may be withdrawn by an inspector at any time before the end of the period specified therein in pursuance of Article 13(2)(d) or 14(3) as the case may be; and
  - (b) the period so specified may be extended or further extended by an inspector at any time when an appeal against the notice is not pending.

## **16 Appeal against improvement or prohibition notice**

- (1) A person on whom a notice is served may within such period from the date of its service as may be prescribed appeal to an appeal tribunal.
- (2) On an appeal under this Article the Tribunal may either cancel or affirm the notice and, if it affirms it, may do so either in its original form or with such modification as the Tribunal may in the circumstances think fit.
- (3) Where an appeal under this Article is brought against a notice within the period allowed under paragraph (1) then in the case of –

- (a) an improvement notice, the bringing of the appeal shall have the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal;
- (b) a prohibition notice, the bringing of the appeal shall have the like effect if, but only if, on the application of the appellant the Tribunal so directs (and then only from the giving of the direction).

## **17 Appeal Tribunal**

- (1) The States shall by Regulations provide for the establishment of an appeal tribunal to determine appeals under Article 16 or 27.
- (2) Without prejudice to the generality of paragraph (1), Regulations under this Article may include provision for –
  - (a) requiring persons to attend to give evidence and produce documents and authorizing the administration of oaths to witnesses;
  - (b) prescribing the procedure to be followed on any appeal;
  - (c) awarding compensation to an appellant where a notice is cancelled or modified;
  - (d) awarding costs;
  - (e) appointing assessors to assist the Tribunal in technical matters.

## **PART 5**

### **ENQUIRIES, OBTAINING AND DISCLOSURE OF INFORMATION**

## **18 Power of Minister to direct investigations and inquiries**

- (1) The Minister may at any time investigate any accident, occurrence, situation or other matter which the Minister considers necessary or expedient to investigate for the purposes of this Law.
- (2) For the purposes of the powers conferred on it by paragraph (1), the Minister may –
  - (a) authorize any person to investigate and make to the Minister a special report on any matter referred to in paragraph (1); or
  - (b) direct an inquiry to be held into any such matter.
- (3) Any inquiry held by virtue of paragraph (2)(b) shall be held in accordance with Regulations made by the States and may be held in public or in private.
- (4) Regulations made under paragraph (3) may in particular include provision conferring on the person holding any such inquiry, and any person assisting in the inquiry –
  - (a) powers of entry and inspection;

- (b) powers of summoning witnesses to give evidence or produce documents; and
  - (c) power to take evidence on oath and administer oaths or require the making of declarations.
- (5) The Minister may cause to be made public at such time and in such manner as the Minister thinks fit any report (or part of such report as the Minister thinks fit) made as the result of an investigation or inquiry under this Article.

## **19 Obtaining of information by the Minister**

For the purpose of obtaining any information which the Minister needs for his or her purposes under this Law the Minister may serve on any person a notice requiring that person to furnish to the Minister such information about such matters as may be specified in the notice, and to do so in such form and manner and within such time as may be so specified.

## **20 Restrictions on disclosure of information**

- (1) In this paragraph and in paragraphs (2) and (3) –
- (a) “relevant information” means information obtained by the Minister under Article 19 or furnished to any person in pursuance of a requirement imposed by any of the relevant statutory provisions; and
  - (b) the “recipient” in relation to any relevant information means the person by whom that information was so obtained or to whom that information was so furnished, as the case may be.
- (2) Subject to paragraphs (3) and (8) no relevant information shall be disclosed without the consent of the person by whom it was furnished.<sup>11</sup>
- (3) Paragraph (2) shall not apply to –
- (a) disclosure of information to the Minister;
  - (b) without prejudice to sub-paragraph (a), disclosure by the recipient of information to –
    - (i) any person for the purpose of any function conferred on the recipient by or under any of the relevant statutory provisions,
    - (ii) a police officer authorized to receive it by the Chief Officer of the States of Jersey Police Force or a Chef de Police, as the case may be;
  - (c) disclosure by the recipient of information in a form calculated to prevent it from being identified as relating to a particular person or case;
  - (d) disclosure of information for the purposes of any legal proceedings or any investigation or inquiry held by virtue of Article 18(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of that paragraph.<sup>12</sup>

- (4) A person to whom information is disclosed in pursuance of paragraph (3) shall not use the information for a purpose other than –
- (a) in a case falling within sub-paragraph (a) of that paragraph, a purpose of the Minister;
  - (b) in the case of information given to a police officer, the purposes of the police in connection with the relevant statutory provisions or any enactment whatsoever relating to public health, public safety or the safety of Jersey.
- (5) Subject to paragraphs (7) and (8), a person shall not disclose any information obtained by the person as a result of the exercise of any power conferred by Article 12 or 18(4)(a) (including, in particular, any information with respect to any trade secret obtained by the person in any premises entered by the person by virtue of any such power) except –
- (a) for the purposes of the person's functions under the relevant statutory provisions; or
  - (b) for the purposes of any legal proceedings or any investigation or inquiry held by virtue of Article 18(2) or for the purposes of a report of any such proceedings or inquiry or of a special report made by virtue of that paragraph; or
  - (c) with the consent –
    - (i) in the case of information furnished in pursuance of a requirement imposed under Article 12, the consent of the person who furnished it, and
    - (ii) in any other case, the consent of a person having responsibilities in relation to the premises where the information was obtained.<sup>13</sup>
- (6) Notwithstanding anything in paragraph (5) an inspector shall, in circumstances in which it is necessary to do so for the purpose of assisting in keeping persons (or the representatives of persons) employed at any premises adequately informed about matters affecting their health, safety and welfare, give to such persons or their representatives –
- (a) factual information obtained by the inspector as mentioned in that paragraph which relates to those premises or anything which was or is therein or was or is being done therein; and
  - (b) information with respect to any action which the inspector has taken or proposes to take in or in connection with those premises in the performance of the inspector's functions,
- and where an inspector gives information under this paragraph the inspector shall also give that information to the employer of the persons employed.
- (7) A person who has obtained information referred to in paragraph (5) may furnish to a person who appears to the person to be a party to any civil proceedings arising out of any accident, occurrence, situation or other matter, a written statement of relevant facts observed by the person in the course of exercising any of the powers referred to in that paragraph.

- (8) Information referred to in paragraph (2) or (5) may be disclosed with the written consent of the Minister.<sup>14</sup>
- (9) The Minister shall not give consent in accordance with paragraph (8) unless the Minister is satisfied that it is expedient to do so –
  - (a) to secure the health, safety or welfare of persons at work;
  - (b) to protect others against risks to health or safety in connection with the activities of persons at work or in connection with the use of plant intended for the service or entertainment of the public; or
  - (c) to control the possession or use of dangerous substances, whether in Jersey or elsewhere.<sup>15</sup>
- (10) The Minister may give his or her consent subject to conditions limiting the persons to whom the information may be disclosed and manner in which it may be used.<sup>16</sup>

## PART 6

### PROVISIONS AS TO OFFENCES

#### 21 Offences

- (1) It is an offence for a person –
  - (a) to fail to discharge a duty to which the person is subject by virtue of Part 2;
  - (b) to contravene any health and safety Regulations or any requirement or prohibition imposed under any such Regulations (including any requirement or prohibition to which the person is subject by virtue of the terms of or any condition or restriction attached to any licence, approval, exemption or other authority issued, given or granted under the Regulations);
  - (c) to contravene any of the existing statutory provisions;
  - (d) to contravene any requirement imposed by or under Regulations made under Article 17 or 18 or intentionally to obstruct any person in the exercise of the person's powers under Article 18;
  - (e) to contravene any requirement imposed by an inspector under Article 12;
  - (f) to prevent or attempt to prevent any other person from appearing before an inspector or from answering any question to which an inspector may by virtue of Article 12(2) require an answer;
  - (g) to contravene any requirement or prohibition imposed by –
    - (i) an improvement notice, or
    - (ii) a prohibition notice,(including any such notice as modified on appeal);

- (h) intentionally to obstruct an inspector in the exercise or performance of the inspector's powers or duties;
  - (i) to contravene any requirement imposed by a notice under Article 19;
  - (j) to use or disclose any information in contravention of Article 20;
  - (k) to make a statement which the person knows to be false or recklessly to make a statement which is false where the statement is made –
    - (i) in purported compliance with a requirement to furnish any information imposed by or under any of the relevant statutory provisions, or
    - (ii) for the purpose of obtaining the issue of a document under any of the relevant statutory provisions to the person or another person;
  - (l) intentionally to make a false entry in any register, book, notice or other document required by or under any of the relevant statutory provisions to be kept, served or given or, with intent to deceive, to make use of any such entry which the person knows to be false;
  - (m) with intent to deceive, to forge or use a document issued or authorized to be issued under any of the relevant statutory provisions or required for any purpose thereunder or to make or have in the person's possession a document so closely resembling any such document as to be calculated to deceive;
  - (n) falsely to pretend to be an inspector;
  - (o) to fail to comply with an order made by the court under Article 24.<sup>17</sup>
- (2) A person guilty of an offence under paragraph (1)(d), (f), (h) or (n) shall be liable on conviction to a fine not exceeding level 3 on the standard scale.<sup>18</sup>
- (3) A person guilty of an offence under –
- (a) paragraph (1)(g)(ii);
  - (b) paragraph (1)(j); or
  - (c) paragraph (1)(b) which is an offence consisting of –
    - (i) contravening any of the relevant statutory provisions by doing otherwise than under the authority of a licence issued by the Minister something for the doing of which such a licence is necessary under the relevant statutory provisions,
    - (ii) contravening a term of or a condition or restriction attached to any such licence as is mentioned in clause (i),
    - (iii) acquiring or attempting to acquire, possessing or using an explosive article or substance (within the meaning of any of the relevant statutory provisions) in contravention of any of these provisions,



shall be liable on conviction to imprisonment for a term not exceeding 2 years, or a fine or both.

- (4) A person guilty of an offence under –
- (a) paragraph (1)(a), (b) (except in relation to the matters mentioned in paragraph (3)(c)), (c), (e), (g)(i), (i), (k), (l), (m) or (o); or
  - (b) any of the existing statutory provisions for which no other penalty is specified in those provisions,
- shall be liable on conviction to a fine.
- (5) Where a person is convicted of an offence under paragraph (1)(g) or (o) then, if the contravention in respect of which the person was convicted is continued after the conviction the person shall (subject to Article 24(3)) be guilty of a further offence and liable in respect thereof to a fine.<sup>19</sup>

## **22 Offences due to fault of other person**

- (1) A person charged with an offence under any of the relevant statutory provisions who proves to the satisfaction of the court that the person had used all due diligence to enforce the execution of the relevant statutory provisions and that the offence was due to an act or default of some other person who committed it without the person's consent, connivance or wilful default, shall be acquitted of the offence.
- (2) Where paragraph (1) applies the person to whose act or default the offence was attributable shall be guilty of the offence and that person may be charged with and convicted of the offence by virtue of this paragraph.

## **23 Offences by bodies corporate**

- (1) Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, the person as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) shall apply in relation to the acts and defaults of a member in connection with its functions of management as if the member were a director of the body corporate.

## **24 Power of court to order cause of offence to be remedied or, in certain cases, forfeiture**

- (1) Where a person is convicted of an offence under any of the relevant statutory provisions in respect of any matters which appear to the court to

be matters which it is in the person's power to remedy, the court may, in addition to or instead of imposing any punishment –

- (a) order the person, within such time as may be fixed by the order, to take such steps as may be specified in the order for remedying the said matters; or
  - (b) empower the Minister, at the expense of the person convicted, to take any action required to be taken under the relevant statutory provisions; and
  - (c) direct that, until such action has been taken which fully complies with the relevant statutory provisions, the premises, machinery, plant, process, substance for use at work or description of manual labour to which the relevant statutory provisions relate, or such part thereof as may be specified by the court, shall not be used or shall only be used in such manner as the court may specify.
- (2) The time fixed by an order under paragraph (1)(a) may be extended or further extended by order of the court on an application made before the end of that time as originally fixed or as extended under this paragraph, as the case may be.
  - (3) Where a person is ordered under paragraph (1)(a) to remedy any matters, that person shall not be liable under any of the relevant statutory provisions in respect of those matters in so far as they continue during the time fixed by the order or any further time allowed under paragraph (2).
  - (4) Where the Minister is empowered by the court to take action under paragraph (1)(b), any person duly authorized in that behalf by the Minister, may, subject to the production by the person, if so required, of evidence of the person's authority, at all reasonable times enter the premises whereon such action is to be taken, and take such action there as the Minister is empowered by the court to take.
  - (5) The expenses incurred by the Minister pursuant to paragraph (1)(b) shall be recoverable as a civil debt due by the person convicted.
  - (6) Subject to paragraph (7), where a person is convicted of an offence mentioned in Article 21(3)(c)(iii) in respect of any explosive article or substance the court may order the article or substance in question to be forfeited and either destroyed or dealt with in such other manner as the court may order.
  - (7) The court shall not order anything to be forfeited under paragraph (6) where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to the person to show cause why the order should not be made.

## 25 Evidence

- (1) Where any entry is required by any of the relevant statutory provisions to be made in any register or other record, the entry, if made, shall, as against the person by or on whose behalf it was made, be admissible as evidence.

- (2) Where an entry which is so required to be so made with respect to the observance of any of the relevant statutory provisions has not been made, the fact shall be admissible as evidence that that provision has not been observed.

## **PART 7**

### **MISCELLANEOUS**

#### **26 Civil liability**

- (1) Nothing in this Law shall be construed –
- (a) as conferring a right of action in any civil proceedings in respect of any failure to comply with any duty imposed by Part 2; or
  - (b) as affecting the extent (if any) to which breach of a duty imposed by any of the existing statutory provisions is actionable; or
  - (c) as affecting the operation of section 12 of the Nuclear Installations Act 1965 of the United Kingdom as extended to Jersey by the Nuclear Installations (Jersey) Order 1980.<sup>20</sup>
- (2) Breach of a duty imposed by health and safety Regulations shall, so far as it causes damage, be actionable except in so far as the Regulations provide otherwise.
- (3) No provision made by virtue of Article 9(2)(i) shall afford a defence in any civil proceedings whether brought by virtue of paragraph (2) or otherwise, but as regards any duty imposed as mentioned in paragraph (2) health and safety Regulations may provide for any defence specified in the Regulations to be available in any action for breach of that duty.
- (4) Paragraphs (1)(a) and (2) are without prejudice to any right of action which exists apart from the provisions of this Law, and paragraph (3) is without prejudice to any defence which may be available apart from the provisions of the Regulations referred to in that paragraph.
- (5) Any term of an agreement which purports to exclude or restrict the operation of paragraph (2), or any liability arising by virtue of that paragraph shall be void, except in so far as health and safety Regulations provide otherwise.
- (6) In this Article “damage” includes the death of, or injury to, any person (including any disease and any impairment of a person’s physical or mental condition).

#### **27 Appeals in connection with licensing provisions in the relevant statutory provisions**

- (1) Any person who is aggrieved by a decision of the Minister in exercise of a power to issue licences under any of the relevant statutory provisions –
- (a) refusing to issue the person a licence, to renew a licence held by the person or to transfer to the person a licence held by another;

- (b) issuing the person a licence on or subject to any term condition or restriction whereby the person is aggrieved;
  - (c) varying or refusing to vary any term, condition or restriction on or subject to which a licence is held by the person; or
  - (d) revoking a licence by the person,
- may appeal to the Appeal Tribunal.
- (2) Before the determination of an appeal the appellant and the Minister shall be asked whether he or she wishes to appear and be heard on the appeal and –
- (a) the appeal may be determined without a hearing of the parties if both of them express a wish not to appear and be heard;
  - (b) the Appeal Tribunal shall, if either of the parties express a wish to appear and be heard, afford to both of them an opportunity of so doing.
- (3) The Appeal Tribunal may give such directions as it considers appropriate to give effect to its determination.

## 28 Notices, etc.

Any notice or other document required or authorized to be sent or served under or for the purposes of this Law may be sent or served either by –

- (a) delivering it to the person on whom it is to be sent or served;
- (b) leaving it at the usual or last-known place of abode of that person or, in the case of a company, at its registered office or its principal place of business;
- (c) sending it by post addressed to that person at his or her usual or last-known place of abode or, in the case of a company, at its registered office or its principal place of business; or
- (d) delivering it to some person on the premises to which it relates or, if there is no person on the premises then by fixing it on some conspicuous part of the premises.

## 29 Savings

- (1) The enactments set out in the Schedule and in force immediately prior to the coming into force of this Law shall, so far as they are not inconsistent with the provisions of this Law continue in force as if made under this Law.
- (2) Nothing in this Law shall affect or derogate from –
  - (a) the [Explosives \(Jersey\) Law 1970](#);
  - (b) the [Fire Precautions \(Jersey\) Law 1977](#);
  - (c) the [Petroleum \(Jersey\) Law 1984](#); or
  - (d) any other enactment providing for the control of the possession and use of dangerous substances.

**30 Citation**

This Law may be cited as the Health and Safety at Work (Jersey) Law 1989.

## SCHEDULE

(Article 29(1))

### EXISTING STATUTORY PROVISIONS

Construction (Safety Provisions) (Jersey) Regulations 1970.

[Explosives \(Safety Provisions\) \(Jersey\) Regulations 1972.](#)

[Safeguarding of Workers \(Cranes and Lifting Appliances\) \(Jersey\) Regulations 1978.](#)

[Safeguarding of Workers \(Highly Flammable Liquids\) \(Jersey\) Regulations 1979.](#)

[Safeguarding of Workers \(Chains, Ropes and Lifting Gear\) \(Jersey\) Regulations 1980.](#)

[Fire Resisting Structures \(Explosion Pressure Relief\) \(Jersey\) Order 1980.](#)

[Safeguarding of Workers \(Electricity at Work\) \(Jersey\) Regulations 1983.](#)

[Safeguarding of Workers \(Liquefied Petroleum Gas\) \(Jersey\) Regulations 1984.](#)

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Health and Safety at Work (Jersey) Law 1989	<a href="#">L.8/1989</a>	1 November 1989 (R&O.7973)
Health and Safety at Work (Amendment) (Jersey) Law 1989	<a href="#">L.22/1989</a>	8 December 1989
Health and Safety at Work (Amendment No. 2) (Jersey) Law 1997	<a href="#">L.15/1997</a>	2 May 1997
Health and Safety at Work (Amendment No. 3) (Jersey) Law 2002	<a href="#">L.19/2002</a>	21 June 2002
States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005	<a href="#">R&amp;O.48/2005</a>	9 December 2005
Health and Safety at Work (Amendment No. 4) (Jersey) Law 2010	<a href="#">L.3/2010</a>	12 March 2010 except Article 1(b) in force 5 June 2010
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012
Connétables (Miscellaneous Provisions – Consequential Amendments) (Jersey) Regulations 2014	<a href="#">R&amp;O.81/2014</a>	1 August 2014 ( <a href="#">R&amp;O.80/2014</a> )
States of Jersey Police Force Law 2012	<a href="#">L.37/2012</a>	1 August 2014 ( <a href="#">R&amp;O.87/2014</a> )
Legislation (Jersey) Law 2021	<a href="#">L.8/2021</a>	28 September 2021 ( <a href="#">R&amp;O.112/2021</a> )

### Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(4), (5), (6)	spent, omitted from this revised edition
PART II	PART 2
PART III	PART 3
9(2)(j)	9(2)(i)
(k)	(j)
PART IV	PART 4
12(2)(j)	12(2)(i)
(k)	(j)
PART V	PART 5
PART VI	PART 6
21(1) (j)	21(1) (i)

Original	Current
(k)	(j)
(l)	(k)
(m)	(l)
(n)	(m)
(o)	(n)
(p)	(o)
PART VII	PART 7
29(1)	spent, omitted from this revised edition
(2)	29(1)
(3)	(2)



## Table of Endnote References

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<sup>1</sup>	<i>This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 8) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government</i>
<sup>2</sup> Article 1(1)	<i>amended by L.37/2012</i>
<sup>3</sup> Article 1(2)	<i>amended by L.37/2012</i>
<sup>4</sup> Article 3(2)	<i>amended by L.3/2010</i>
<sup>5</sup> Article 3(3)	<i>substituted by L.3/2010</i>
<sup>6</sup> Article 3(4)	<i>inserted by L.3/2010</i>
<sup>7</sup> Article 3(5)	<i>inserted by L.3/2010</i>
<sup>8</sup> Article 9(2)	<i>amended by L.15/1997, L.8/2021</i>
<sup>9</sup> Article 12(3)	<i>amended by L.22/1989</i>
<sup>10</sup> Article 12(4)	<i>amended by L.4/2012</i>
<sup>11</sup> Article 20(2)	<i>amended by L.19/2002</i>
<sup>12</sup> Article 20(3)	<i>amended by R&amp;O.81/2014</i>
<sup>13</sup> Article 20(5)	<i>amended by L.19/2002</i>
<sup>14</sup> Article 20(8)	<i>inserted by L.19/2002</i>
<sup>15</sup> Article 20(9)	<i>inserted by L.19/2002</i>
<sup>16</sup> Article 20(10)	<i>inserted by L.19/2002</i>
<sup>17</sup> Article 21(1)	<i>amended by L.22/1989</i>
<sup>18</sup> Article 21(2)	<i>amended by L.15/1997</i>
<sup>19</sup> Article 21(5)	<i>amended by L.15/1997</i>
<sup>20</sup>	<i>OinC.1/1981</i>