



Jersey

**FOOD AND ENVIRONMENT
PROTECTION ACT 1985 (JERSEY)
ORDER 1987**

Unofficial extended UK law

20.150

Showing the law as at 1 January 2019

APPENDIX

*Jersey in Order Council 8/1987 The Food and Environment Protection Act 1985
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Jersey

FOOD AND ENVIRONMENT PROTECTION ACT 1985 (JERSEY) ORDER 1987

Jersey Order in Council 8/1987

**THE FOOD AND ENVIRONMENT PROTECTION ACT 1985 (JERSEY)
ORDER, 1987.**

(Registered on the 8th day of May, 1987.)

At the Court of Windsor Castle.

7th April, 1987.

PRESENT

The Queen's Most Excellent Majesty in Council.

HER MAJESTY, in pursuance of section 26(1) and (2) of the Food and Environment Protection Act 1985, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows –

1. This Order may be cited as the Food and Environment Protection Act 1985 (Jersey) Order 1987 and shall come into force on 1st May, 1987.

2. In this Order, the expression “the Bailiwick” means the Bailiwick of Jersey and the territorial waters adjacent thereto.

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3. Part II (including Schedules 2 to 4) and Part IV of the Food and Environment Protection Act 1985 shall extend to the Bailiwick with the exceptions, adaptations and modifications specified in the Schedule to this Order.

G.I. DE DENEY

Clerk of the Privy Council.

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SCHEDULE

(Article 3)

Exceptions, Adaptations and Modifications in the Extension of Provisions of the Food and Environment Protection Act 1985 to the Bailiwick of Jersey

1. Any reference to, or to a provision of, an Act of Parliament (including the Food and Environment Protection Act 1985) shall be construed, unless the contrary intention appears, as a reference to it as has effect in the Bailiwick.

2. Except in sections 12 and 24(3), for any reference to –

- (a) the Ministers, one or other of the Ministers or either of the Ministers; or
- (b) a licensing authority;

there shall be substituted a reference to the Committee.

3. In section 5 –

- (a) in paragraph (a), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (b) in paragraph (b), the words “British aircraft” in both places where they occur shall be omitted and for the word “British” wherever else it occurs there shall be substituted the word “Jersey”;
- (c) in paragraph (c), for the words “the United Kingdom or United Kingdom waters” in both places where they occur there shall be substituted the words “the Bailiwick”;
- (d) in paragraph (d), for the words “the United Kingdom” there shall be substituted the words “the Bailiwick”;
- (e) in paragraph (e) –
 - (i) in sub-paragraph (i), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
 - (ii) in sub-paragraph (ii), the words “British aircraft” shall be omitted and for the word “British” wherever else it occurs there shall be substituted the word “Jersey”; and
 - (iii) in sub-paragraph (iii), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (f) in paragraph (f), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”;

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- (g) in paragraph (g), for the words “the United Kingdom” there shall be substituted the words “the Bailiwick”; and
- (h) in paragraph (h), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”.

4. In section 6(1) –

- (a) in paragraph (a) –
 - (i) in sub-paragraph (i) for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
 - (ii) in sub-paragraph (ii), for the word “British” in both places where it occurs there shall be substituted the word “Jersey”; and
 - (iii) in sub-paragraph (iii), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”; and
- (b) in paragraph (b), for the words “the United Kingdom or United Kingdom waters” there shall be substituted the words “the Bailiwick”.

5. In section 7 –

- (a) in subsection (1), for the words “jointly by order made by statutory instrument” there shall be substituted the words “by order”; and
- (b) subsection (4) shall be omitted.

6. In section 8 –

- (a) in subsection (4)(b), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”;
- (b) in subsection (6), the words “, and in Scotland sufficient evidence,” shall be omitted;
- (c) for subsection (7) there shall be substituted the following subsection –

“(7) The Committee may require an applicant for a licence, on making his application, to pay such reasonable fee in respect of the administrative expenses of processing his application as may be determined by the Committee”; and

- (d) subsection (9) shall be omitted.

7. In section 9(5), for the words “United Kingdom waters” there shall be substituted the words “the Bailiwick”.

8. In section 11 –

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- (a) in subsection (2)(a) and (b), for the words “United Kingdom” there shall be substituted the word “Bailiwick”;
- (b) for subsection (2)(c) there shall be substituted the following paragraph –
 “(c) Jersey vessels, Jersey hovercraft and Jersey marine structures, wherever they may be,”; and
- (c) in subsection (3), for the words “British vessel” there shall be substituted the words “Jersey vessel”.

9. In section 12, subsection (3) shall be omitted.

10. In section 14, the words “with the consent of the Treasury” shall be omitted.

11. In section 15, subsections (2) to (6) shall be omitted.

12. For section 20 there shall be substituted the following section –

“**20.**-(1) Subject to subsection (2) below, a person authorised to enforce Part II of this Act may perform any functions under this Act in relation to land in which there is a Crown interest.

(2) Such a person shall not perform any functions –

- (a) in relation to land in which there is no interest other than a Crown interest; or
- (b) in relation to land which is exclusively in Crown occupation.

(3) In this section –

“Crown interest” means any interest belonging to Her Majesty in right of the Crown; and

“Crown occupation” means occupation by Her Majesty in right of the Crown.”

13. In section 21 –

- (a) subsections (2), (4) and (5) shall be omitted;
- (b) for subsection (1) there shall be substituted the following subsection –

“(1) A person guilty of an offence under section 9(1) above shall be liable to a fine or to imprisonment for a term of not more than two years or to both.”;

- (c) for subsection (3) there shall be substituted the following subsection –

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“(3) A person guilty of an offence under section 9(2) above or under Schedule 2 to this Act shall be liable to a fine.”; and

- (d) in subsection (8), for the words “any place in the United Kingdom” there shall be substituted the words “the Bailiwick”.

14. Section 23 shall be omitted.

15. In section 24 –

- (a) for subsection (1) there shall be substituted the following subsection –

“(1) in this Act, unless the context otherwise requires –

‘a Board of Administrative Appeal’ means a Board constituted in accordance with the Administrative Decisions (Review) (Jersey) Law, 1982;²

‘British fishery limits’ has the meaning assigned to it by the Fishery Limits Act 1976;

‘captain’, in relation to a hovercraft, means the person who is designated by the operator to be in charge of it during any journey, or, failing such designation, the person who is for the time being lawfully in charge of it;

‘commander’, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator, or, failing such designation, the person who is for the time being the pilot in command of the aircraft;

‘the Committee’ means the Harbours and Airport Committee¹ of the States of Jersey;

‘Convention State’ means a state which is a party to the London Convention or the Oslo Convention;

‘incineration’ has the meaning assigned to it by section 6 above;

‘Jersey hovercraft’ means a hovercraft, other than a hovercraft registered in the United Kingdom, owned or operated by an individual resident in, or a body incorporated under the law of, the Bailiwick;

‘Jersey marine structure’ means a marine structure owned by or leased to an individual resident in, or a body incorporated under the law of, the Bailiwick;

‘Jersey vessel’ means a vessel registered in Jersey under the Merchant Shipping Act 1894 or under any Jersey enactment;

² Volume 1982–1983, page 39.

¹ by R&O.67/2004 the functions of this Committee were transferred to the Environment and Public Services Committee

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‘licence’ means a licence under Part II of this Act;

‘the London Convention’ means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;

‘marine structure’ means a platform or other man-made structure at sea, other than a pipe-line;

‘master’, in relation to any vessel, includes the person for the time being in charge of the vessel;

‘the Ministers’ means the Minister of Agriculture, Fisheries and Food and the Secretary of State;

‘the Oslo Convention’ means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded at Oslo in February 1972;

‘sea’ includes any area submerged at mean high water springs and also includes, so far as tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

‘vessel’ has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894.”; and

(b) in subsection (3) –

(i) the words “or regulations” in both places where they occur shall be omitted; and

(ii) for the words “as the Minister” there shall be substituted the words “as the Committee or the Minister”.

16. Sections 25, 26 and 27 shall be omitted.

17. In Schedule 2 –

(a) for paragraph 1 there shall be substituted the following paragraph –

“1. In this Schedule ‘officer’ means a person authorised to enforce Part II of this Act.”;

(b) in paragraph 3 –

(i) in sub-paragraph (1), for the words “Part I or II” there shall be substituted the words “Part II”, and

(ii) sub-paragraphs (3) to (5) shall be omitted;

(c) paragraph 5(3) shall be omitted; and

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(d) in paragraph 7 –

- (i) in sub-paragraphs (1) and (2), for the words “a justice” there shall be substituted the words “the Bailiff”; and
- (ii) sub-paragraphs (3) and (4) shall be omitted.

18. In Schedule 3 –

(a) for paragraph 5 there shall be substituted the following paragraph –

“5. If within 28 days of receipt of a notice under this Schedule giving the Committee’s reasons the person to whom the notice is given makes written representations to the Committee concerning the matter to which the notice related, the Committee shall refer the matter to a Board of Administrative Appeal which shall act as if an application for review had been received by it under the Administrative Decisions (Review) (Jersey) Law, 1982.³”; and

(b) paragraphs 7 to 17 shall be omitted.

³ Volume 1982–1983, page 39.

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CHAPTER 48

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SCHEDULE 5 – The Advisory Committee.

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ELIZABETH II



1985 CHAPTER 48

AN ACT to authorise the making in an emergency of orders specifying activities which are to be prohibited as a precaution against the consumption of food rendered unsuitable for human consumption in consequence of an escape of substances; to replace the Dumping at Sea Act 1974 with fresh provision for controlling the deposit of substances and articles in the sea; to make provision for the control of the deposit of substances and articles under the sea-bed; to regulate pesticides and substances, preparations and organisms prepared or used for the control of pests or for protection against pests; and for connected purposes.

[16th July, 1985]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows⁴ –

PART I

CONTAMINATION OF FOOD

* * * * *

PART II

DEPOSITS IN THE SEA

Licensing

5. Subject to the following provisions of this Part of this Act, a licence under this Part of this Act is needed –

- (a) for the deposit of substances or articles within [the Bailiwick], either in the sea or under the sea-bed –
 - (i) from a vehicle, vessel, aircraft, hovercraft or marine structure;
 - (ii) from a container floating in the sea; or

⁴ Deletions and words in square brackets indicate adaptations and modifications made by the Food and Environment Protection Act 1985 (Jersey) Order 1987.

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- (iii) from a structure on land constructed or adapted wholly or mainly for the purpose of depositing solids in the sea;
- (b) for the deposit of substances or articles anywhere in the sea or under the sea-bed –
 - (i) from a [Jersey] vessel, * *, [Jersey] hovercraft or [Jersey] marine structure; or
 - (ii) from a container floating in the sea, if the deposit is controlled from a [Jersey] vessel, * *, [Jersey] hovercraft or [Jersey] marine structure;
- (c) for the deposit of substances or articles anywhere within British fishery limits, either in the sea or under the sea-bed –
 - (i) from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure which was loaded in [the Bailiwick] with any of those substances or articles; or
 - (ii) from a container floating in the sea which was loaded with any of those substances or articles in [the Bailiwick], if the deposit is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure;
- (d) for the deposit of substances or articles anywhere under the seabed within British fishery limits from a vehicle which was loaded in [the Bailiwick] with any of those substances or articles;
- (e) for the scuttling of vessels –
 - (i) in [the Bailiwick];
 - (ii) anywhere at sea, if the scuttling is controlled from a [Jersey] vessel, * *, [Jersey] hovercraft or [Jersey] marine structure; or
 - (iii) anywhere at sea within British fishery limits, if it is controlled from a foreign vessel, foreign aircraft, foreign hovercraft or foreign marine structure and the vessel scuttled was towed or propelled to the place where the scuttling takes place from [the Bailiwick];
- (f) for the loading of a vessel, aircraft, hovercraft, marine structure or floating container in [the Bailiwick] with substances or articles for deposit anywhere in the sea or under the sea-bed;
- (g) for the loading of a vehicle in [the Bailiwick] with substances or articles for deposit from that vehicle as mentioned in paragraph (a) or (d) above; and
- (h) for the towing or propelling from [the Bailiwick] of a vessel for scuttling anywhere at sea.

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6.-(1) Subject to the following provisions of this Part of this Act, a licence is needed –

- (a) for the incineration of substances or articles on a vessel or marine structure –
 - (i) in [the Bailiwick];
 - (ii) anywhere at sea, if the incineration takes place on a [Jersey] vessel or [Jersey] marine structure; or
 - (iii) anywhere at sea within British fishery limits, if the incineration takes place on a foreign vessel or foreign marine structure which was loaded in [the Bailiwick] with any of those substances or articles; and
- (b) for the loading of a vessel or marine structure in [the Bailiwick] with substances or articles for incineration anywhere at sea.

(2) In this Act “incineration” means any combustion of substances and materials for the purpose of their thermal destruction.

7.-(1) [The Committee] may [by order] specify operations –

- (a) which are not to need a licence; or
- (b) which are not to need a licence if they satisfy conditions specified in the order.

(2) The conditions that an order under this section may specify include conditions enabling [the Committee] to require a person to obtain [the Committee’s] approval before he does anything for which a licence would be needed but for the order.

(3) Approval under subsection (2) above may be without conditions or subject to such conditions as [the Committee] considers appropriate.

(4) * * * * *

8.-(1) In determining whether to issue a licence [the Committee] –

- (a) shall have regard to the need –
 - (i) to protect the marine environment, the living resources which it supports and human health; and
 - (ii) to prevent interference with legitimate uses of the sea; and
- (b) may have regard to such other matters as [the Committee] considers relevant.

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(2) With prejudice to the generality of subsection (1) above, where it appears to [the Committee] that the applicant for a licence has applied for the licence with a view to the disposal of the substances or articles to which it would relate, [the Committee], in determining whether to issue a licence, shall have regard to the practical availability of any alternative methods of dealing with them.

(3) [The Committee] –

(a) shall include such provisions in a licence as appear to [the Committee] to be necessary or expedient –

(i) to protect the marine environment, the living resources which it supports and human health; and

(ii) to prevent interference with legitimate uses of the sea; and

(b) may include in a licence such other provisions as [the Committee] considers appropriate.

(4) With prejudice to the generality of subsection (3) above, [the Committee]

–

(a) may include in any licence provisions requiring –

(i) that no operation authorised by the licence shall be carried out until [the Committee] has given such further consent to or approval of the operation as the licence may specify; and

(ii) that automatic equipment shall be used for recording such information relating to any operation of deposit, scuttling or incineration mentioned in the licence as [the Committee] may specify; and

(b) may include in a licence which only authorises operations such as are mentioned in section 5(f) or (h) above or section 6(1)(b) above provisions requiring that any operation of deposit, scuttling or incineration which is mentioned in it shall take place at a specified site, whether in [the Bailiwick] or not.

(5) [The Committee] may require an applicant for a licence to supply such information and permit such examinations and tests as in the opinion of [the Committee] may be necessary or expedient to enable [the Committee] to decide whether a licence should be issued to the applicant and the provisions which any licence that is issued to him ought to contain.

(6) Where automatic recording equipment is used in accordance with a provision included in a licence by virtue of subsection 4(a) above, any record produced by means of the equipment shall, in any proceedings under this Part of this Act, be evidence * * * of the matters appearing from the record.

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[(7) The Committee may require an applicant for a licence, on making his application, to pay such reasonable fee in respect of the administrative expenses of processing his application as may be determined by the Committee.]

(8) [The Committee] may also require an applicant for a licence to pay a further reasonable fee towards the expense –

(a) of carrying out any examinations and tests which in the opinion of [the Committee] are necessary or expedient to enable [the Committee] to decide –

(i) whether to issue a licence to the applicant; and

(ii) the provisions which any licence issued to him ought to include;

(b) of checking the manner in which operations for which a licence is needed have been or are being conducted; and

(c) of monitoring the effect of such operations.

(9) * * * * *

(10) [The Committee] may vary or revoke a licence which [the Committee] has issued if it appears to [the Committee] that there has been a breach of any of its provisions.

(11) [The Committee] may vary or revoke a licence which (the Committee] has issued if it appears to [the Committee] that the licence ought to be varied or revoked –

(a) because of a change in circumstances relating to the marine environment, the living resources which it supports or human health; or

(b) because of increased scientific knowledge relating to any of those matters; or

(c) for any other reason that appears to [the Committee] to be relevant.

(12) Schedule 3 to this Act shall have effect.

Offences relating to licensing system etc

9.-(1) Subject to subsections (3) to (7) below, a person who –

(a) except in pursuance of a licence and in accordance with its provisions, does anything for which a licence is needed; or

(b) causes or permits any other person to do any such thing except in pursuance of a licence and in accordance with its provisions,

shall be guilty of an offence.

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(2) A person who for the purpose of procuring the issue of a licence, or in purporting to carry out a duty imposed on him by the provisions of a licence –

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly makes a statement which is false in a material particular; or
- (c) intentionally fails to disclose any material particular,

shall be guilty of an offence.

(3) Subject to subsection (4) below, it shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation to prove –

- (a) that the operation was carried out for the purpose of securing the safety of a vessel, aircraft, hovercraft or marine structure or of saving life; and
- (b) that he took steps within a reasonable time to inform [the Committee] –
 - (i) of the operation;
 - (ii) of the locality and circumstances in which it took place; and
 - (iii) of any substances or articles concerned.

(4) A person does not have the defence provided by subsection (3) above if the court is satisfied –

- (a) that the operation –
 - (i) was not necessary for any purpose mentioned in paragraph (a) of that subsection; and
 - (ii) was not a reasonable step to take in the circumstances; or
- (b) that it was necessary for one of those purposes but the necessity was due to the fault of the defendant.

(5) It shall be a defence for a person charged with an offence under subsection (1) above in relation to any operation –

- (a) which falls within section 5(b) or (e)(ii) or 6(1)(a)(ii) above; and
- (b) which was carried out outside [the Bailiwick],

to prove that subsections (6) and (7) below are satisfied in respect of that operation.

(6) This subsection is satisfied –

- (a) in respect of an operation falling within section 5(b) above, if the vessel, aircraft, hovercraft, marine structure or container (as the case may be)

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was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles deposited;

- (b) in respect of an operation falling within section 5(e)(ii) above, if the vessel scuttled was towed or propelled from a Convention State or the national or territorial waters of a Convention State to the place where the scuttling was carried out; or
- (c) in respect of an operation falling within section 6(1)(a)(ii) above, if the vessel or marine structure on which the incineration took place was loaded in a Convention State or the national or territorial waters of a Convention State with the substances or articles incinerated.

(7) This subsection is satisfied in respect of an operation if the operation took place in pursuance of a licence issued by the responsible authority in the Convention State concerned and in accordance with the provisions of that licence.

10.-(1) [The Committee] may carry out any operation which appears to [the Committee] to be necessary or expedient for the purpose of protecting the marine environment, the living resources which it supports and human health, or of preventing interference with legitimate use of the sea, in any case where anything for which a licence is needed appears to have been done otherwise than in pursuance of a licence and in accordance with its provisions.

(2) If [the Committee] carries out an operation under subsection (1) above, [the Committee] may recover any expenses reasonably incurred by [the Committee] in carrying it out from any person who has been convicted of an offence in consequence of the act or omission which made it appear to [the Committee] to be necessary or expedient to carry out the operation.

Enforcement

11.-(1) [The Committee] may authorise any person subject to such limitations as may be specified in the instrument authorising [the Committee] to enforce this Part of this Act; and the following provisions of this Act shall be construed, in reference to a person so authorised, as subject to any such limitations.

(2) Subject to the following provisions of this Act, a person so authorised may enter –

- (a) land and vehicles in the [Bailiwick];
- (b) foreign vessels, foreign aircraft, foreign hovercraft and foreign marine structures in the [Bailiwick] or within British fishery limits;
- [(c) Jersey vessels, Jersey hovercraft and Jersey marine structures, wherever they may be,]

if he has reasonable grounds for believing that any substances or articles intended to be deposited in the sea or under the sea-bed or incinerated on a vessel or marine structure at sea are or have been present there.

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- (3) A person so authorised may board –
- (a) any vessel within British fishery limits; and
 - (b) any [Jersey vessel] wherever it may be,

if it appears to him that it is intended to be scuttled.

(4) A person so authorised shall not enter premises used only as a dwelling for the purpose of enforcing this Part of this Act.

(5) Schedule 2 to this Act shall have effect with respect to persons authorised to enforce this Part of this Act.

12.-(1) The Ministers may jointly by order made by statutory instrument –

- (a) declare that any procedure which has been developed for the effective application of the London Convention or the Oslo Convention and is specified in the order is an agreed procedure as between Her Majesty's Government and the United Kingdom and the Government of any Convention State so specified; and
- (b) specify any of the powers conferred by this Act for the purpose of enforcing this Part of this Act as a power that may be exercised, by such persons in such circumstances and subject to such conditions or modifications as may be specified, for the purpose of enforcing that procedure.

(2) A person who exercises any powers by virtue of an order under this section shall have the same rights and liabilities in relation to their exercise that a person authorised under section 11 above would have in relation to the exercise of any powers for the purpose of enforcing this Part of this Act.

(3) * * * * *

Miscellaneous

13.-(1) At the request of any person [the Committee] may conduct tests for the purpose of ascertaining the probable effect on the marine environment and the living resources which it supports of using for the purpose of treating oil on the surface of the sea any substance produced for that purpose.

(2) If [the Committee] conducts any tests under this section [the Committee] may recover any expenses reasonably incurred by [the Committee] in conducting them from any person at whose request they were conducted.

14. [The Committee] shall compile and keep available for public inspection free of charge at reasonable hours a register containing –

- (a) in respect of each licence issued by [the Committee] for an operation such as is mentioned in section 5(a), (b), (c), (d), (f) or (g) or section 6 above, the particulars specified in Part I of Schedule 4 to this Act; and

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- (b) in respect of each licence so issued for an operation such as is mentioned in section 5(e) or (h) above, the particulars specified in Part II of that Schedule,

and shall furnish a copy of the entry relating to any such licence to any person on payment by him of such reasonable fee as [the Committee] may * * * determine.

15.-(1) The Dumping at Sea Act 1974⁵ is hereby repealed.

(2) * * * * *

(3) * * * * *

(4) * * * * *

(5) * * * * *

(6) * * * * *

(7) Without prejudice to section 17(2) of the Interpretation Act 1978 (repeal and re-enactment) any licence under the Dumping at Sea Act 1974⁶ which is in force immediately before the commencement of this Part of this Act –

- (a) shall have effect as from the commencement of this Part of this Act as if granted under this Part of this Act; and
- (b) in the case of a licence for a specified period shall remain in force, subject to the provisions of this Part of this Act, for so much of that period as falls after the commencement of this Part of this Act.

PART III

PESTICIDES ETC

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PART IV

GENERAL AND SUPPLEMENTARY

[20.-(1) Subject to subsection (2) below, a person authorised to enforce Part II of this Act may perform any functions under this Act in relation to land in which there is a Crown interest.

(2) Such a person shall not perform any functions –

- (a) in relation to land in which there is no interest other than a Crown interest; or

⁵ Volume 1975–1978, page 77.

⁶ Volume 1975–1978, page 77.

*Jersey in Order Council 8/1987 The Food and Environment Protection Act 1985
(Jersey) Order, 198*

(b) in relation to land which is exclusively in Crown occupation.

(3) In this section –

“Crown interest” means any interest belonging to Her Majesty in right of the Crown; and

“Crown occupation” means occupation by Her Majesty in right of the Crown.]

21.-(1) A person guilty of an offence under section 9(1) above shall be liable to a fine or to imprisonment for a term of not more than two years or to both.]

(2) * * * * *

(3) [A person guilty of an offence under section 9(2) above or under Schedule 2 to this Act shall be liable to a fine.]

(4) * * * * *

(5) * * * * *

(6) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

(7) Where the affairs of a body corporate are managed by its members, subsection (6) above shall apply in relation to the acts and defaults of a member in connexion with his functions of management as if he were a director of the body corporate.

(8) Proceedings for any offence under this Act may be taken, and the offence may for all incidental purposes be treated as having been committed, in [the Bailiwick].

22.-(1) In any proceedings for an offence under this Act it is a defence for the person charged to prove that he took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

(2) Without prejudice to the generality of subsection (1) above, a person is to be taken to have established the defence provided by that subsection if he proves –

(a) that he acted under instructions given to him by his employer; or

(b) that he acted in reliance on information supplied by another person without any reason to suppose that the information was false or misleading,

and in either case that he took all such steps as were reasonably open to him to ensure that no offence would be committed.

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(3) If in any case the defence provided by subsection (1) above involves an allegation that the commission of the offence was due to an act or omission by another person, other than the giving of instructions to the person charged with the offence by his employer, or to reliance on information supplied by another person, the person charged shall not, without leave of the court, be entitled to rely on that defence unless within a period ending seven clear days before the hearing, he has served on the prosecutor a notice giving such information identifying or assisting in the identification of that other person as was then in his possession.

23. * * * * *

24.-(1) In this Act, unless the context otherwise requires –

“a Board of Administrative Appeal” means a Board constituted in accordance with the Administrative Decisions (Review) (Jersey) Law, 1982;⁷

“British fishery limits” has the meaning assigned to it by the Fishery Limits Act 1976;

“captain”, in relation to a hovercraft, means the person who is designated by the operator to be in charge of it during any journey, or, failing such designation, the person who is for the time being lawfully in charge of it;

“commander”, in relation to an aircraft, means the member of the flight crew designated as commander of that aircraft by the operator, or, failing such designation, the person who is for the time being the pilot in command of the aircraft;

“the Committee” means the Harbours and Airport Committee of the States of Jersey;

“Convention State” means a state which is a party to the London Convention or the Oslo Convention;

“incineration” has the meaning assigned to it by section 6 above;

“Jersey hovercraft” means a hovercraft other than a hovercraft registered in the United Kingdom, owned or operated by an individual resident in, or a body incorporated under the law of, the Bailiwick;

“Jersey marine structure” means a marine structure owned by or leased to an individual resident in, or a body incorporated under the law of, the Bailiwick;

“Jersey vessel” means a vessel registered in Jersey under the Merchant Shipping Act 1894 or under any Jersey enactment;

“licence” means a licence under Part II of this Act;

⁷ Volume 1982–1983, page 39.

*Jersey in Order Council 8/1987 The Food and Environment Protection Act 1985
(Jersey) Order, 198*

“the London Convention” means the Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter concluded at London in December 1972;

“marine structure” means a platform or other man-made structure at sea, other than a pipe-line;

“master”, in relation to any vessel, includes the person for the time being in charge of the vessel;

“the Ministers” means the Minister of Agriculture, Fisheries and Food and the Secretary of State;

“the Oslo Convention” means the Convention for the Prevention of Marine Pollution by Dumping from Ships and Aircraft concluded at Oslo in February 1972;

“sea” includes any area submerged at mean high water springs and also includes, so far as the tide flows at mean high water springs, an estuary or arm of the sea and the waters of any channel, creek, bay or river;

“vessel” has the meaning assigned to it by section 742 of the Merchant Shipping Act 1894.]

(2) Any reference in this Act to the London Convention or the Oslo Convention is a reference to it as it has effect from time to time.

(3) Any power conferred by this Act to make orders * * may be exercised –

(a) either 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 case; and

(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 less provision (whether by way of exception or otherwise);

(ii) the same provision for all cases in relation to which the power is exercised, or different provision for different cases or different classes of case, or different provision as respects the same case or class of case for different purposes of this Act;

(iii) any such provision either unconditionally, or subject to any specified condition,

and includes power to make such incidental or supplemental provision in the orders * * [as the Committee or the Minister] making them considers appropriate.

25. * * * * *

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SCHEDULES

SCHEDULE 1

(Section 1)

EMERGENCY PROHIBITIONS

* * * * *

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SCHEDULE 2

(Sections 4,11 and 19)

OFFICERS AND THEIR POWERS

Introductory

[1. In this Schedule “officer” means a person authorised to enforce Part II of this Act.]

Assistants for officers etc

2.-(1) An officer may take with him, to assist him in performing his functions –

- (a) any other person; and
- (b) any equipment or materials.

(2) A person whom an officer takes with him to assist him may perform any of the officer’s functions, but only under the officer’s supervision.

Powers in relation to vessels, aircraft etc

3.-(1) In order to perform functions under [Part II] of this Act an officer may require any person –

- (a) to give details of any substances or articles on board a vessel, aircraft, hovercraft or marine structure; and
- (b) to give information concerning any substances or articles lost from a vessel, aircraft, hovercraft or marine structure.

(2) In order to perform any such functions an officer –

- (a) may require any vessel, aircraft, hovercraft or marine structure to stop; and
- (b) may require the attendance –
 - (i) of the master, captain or commander of a vessel, aircraft or hovercraft;
 - (ii) of the person in charge of a marine structure; and
 - (iii) of any other person who is on board a vessel, aircraft, hovercraft or marine structure,

and may require any person on board to assist him in the performance of his functions.

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(3) * * * * *

(4) * * * * *

(5) * * * * *

Containers etc

4. Without prejudice to his powers under any other provision of this Act, in order to perform his functions an officer –

- (a) may open any container;
- (b) may carry out searches, inspections, measurements and tests;
- (c) may take samples;
- (d) may require the production of documents, books and records; and
- (e) may photograph or copy anything whose production he has power to require under paragraph (d) above.

Evidence of officers' authority

5.-(1) An officer shall be furnished with a certificate of his authorisation and when he proposes to perform any function under this Act, it shall be his duty, if so requested, to produce that certificate.

(2) It shall also be his duty, if so requested, to state –

- (a) his name;
- (b) the function that he proposes to perform; and
- (c) his grounds for proposing to perform it.

(3) * * * * *

Time of performance of functions

6. An officer must perform his functions under this Act at a reasonable hour unless it appears to the officer that there are grounds for suspecting that the purpose of their performance may be frustrated if he seeks to perform them at a reasonable hour.

Entry into dwellings

7.-(1) An officer may only enter a dwelling for the purpose of performing his functions under this Act if [the Bailiff] has issued a warrant authorising him to enter and search that dwelling.

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(2) [The Bailiff] may only issue such a warrant if on an application made by the officer he is satisfied –

- (a) that the officer has reasonable grounds for believing that there is present in the dwelling anything to which those functions relate, and
- (b) that –
 - (i) it is not practicable to communicate with any person entitled to grant entry to the dwelling; or
 - (ii) a person entitled to grant entry to the dwelling has unreasonably refused an officer entry; or
 - (iii) entry to the dwelling is unlikely to be granted unless a warrant is produced; or
 - (iv) the purpose of entry may be frustrated or seriously prejudiced unless an officer arriving at the dwelling can secure immediate entry to it.

(3) * * * * *

(4) * * * * *

Power of officer to use reasonable force

8. An officer may use reasonable force, if necessary, in the performance of his functions.

Protection of officers

9. An officer shall not be liable to any civil or criminal proceedings for anything done in the purported performance of his functions under this Act if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

Offences

10. Any person who –

- (a) intentionally obstructs an officer in the performance of any of his functions under this Act;
- (b) fails without reasonable excuse to comply with a requirement made or direction given by an officer in the performance of his functions under this Act; or
- (c) in purporting to give information required by an officer for the performance of any of his functions under this Act –
 - (i) makes a statement which he knows to be false in a material particular;

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(ii) recklessly makes a statement which is false in a material particular;
or

(iii) intentionally fails to disclose any material particular,

shall be guilty of an offence.

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SCHEDULE 3

(Section 8)

LICENCES – RIGHT TO MAKE REPRESENTATIONS ETC

1. If within 28 days of the issue of a licence the person to whom it is issued requests [the Committee] to give him notice in writing of the reasons for the inclusion of any provision in it, [the Committee] shall comply with his request within 28 days of receiving it.

2. On issuing a licence to a person [the Committee] shall notify him of the effect of paragraph 1 above.

3. If [the Committee] refuses an application for a licence, [the Committee] shall give the applicant notice in writing of the reasons for the refusal.

4. If [the Committee] varies or revokes a licence without the holder's consent, [the Committee] shall give the holder notice in writing of the reasons for the variation or revocation.

[5. If within 28 days of receipt of notice under this Schedule giving the Committee's reasons the person to whom the notice is given makes written representations to the Committee concerning the matter to which the notice related, the Committee shall refer the matter to a Board of Administrative Appeal which shall act as if an application for review had been received by it under the Administrative Decisions (Review) (Jersey) Law, 1982.⁸]

6. A notice under this Schedule giving [the Committee's] reasons shall state the effect of paragraph 5 above.

7. * * * * *

8. * * * * *

9. * * * * *

10. * * * * *

11. * * * * *

12. * * * * *

13. * * * * *

14. * * * * *

15. * * * * *

16. * * * * *

⁸ Volume 1982–1983, page 39.

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17. * * * * *

*Jersey in Order Council 8/1987 The Food and Environment Protection Act 1985
(Jersey) Order, 198*

SCHEDULE 4

(Section 14)

PARTICULARS TO BE CONTAINED IN REGISTERS

PART I

**LICENCES FOR DEPOSIT OR INCINERATION OR ASSOCIATED
OPERATIONS**

1. The name of the holder of the licence.
2. The period of the licence.
3. The name, where known, of the producer of the substances or articles.
4. Their description and quantity.
5. Their country of origin, where known.
6. The site at which it was intended to deposit or incinerate them.
7. The place from which it was intended that they should be taken to that site.
8. The nature of any container or packaging in which it was intended that they should be when deposited.
9. The results of any toxicity tests carried out for the purpose of determining whether the licence should be issued or the provisions to be included in it.

PART II

LICENCES FOR SCUTTLING OR ASSOCIATED OPERATIONS

10. The name of the holder of the licence.
11. The period of the licence.
12. The name of the owner of the vessel.
13. A description of the vessel.
14. The site at which it was intended to scuttle it.
15. The place from which it was intended that it should be taken to that site.

*Jersey in Order Council 8/1987 The Food and Environment Protection Act 1985
(Jersey) Order, 198*

SCHEDULE 5

(Section 16)

THE ADVISORY COMMITTEE

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