

PROJET DE LOI

ENTITLED

The Poisonous Substances (Guernsey) Law, 1994 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

© States of Guernsey

* No. XVIII of 1994 (Ordres en Conseil Vol. XXXV(1), p. 388); as amended by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

PROJET DE LOI

ENTITLED

The Poisonous Substances (Guernsey) Law, 1994

ARRANGEMENT OF SECTIONS

1. Regulations in respect of poisonous substances.
2. Codes of practice in respect of poisonous substances.
3. Interpretation.
4. General provisions as to regulations and codes.
5. Repeal of Law of 1958.
6. Citation.
7. Commencement.

PROJET DE LOI

ENTITLED

The Poisonous Substances (Guernsey) Law, 1994

THE STATES, in pursuance of their Resolution of the 26th day of May, 1993^a, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Islands of Guernsey, Herm and Jethou.

Regulations in respect of poisonous substances.

1. (1) [The Committee] may by regulation make provision as to the prohibition, regulation or control of the importation, production, treatment, keeping, storage, movement, transport, distribution, disposal, acquisition, supply, sale, use or consumption of any poisonous substance.

(2) Without prejudice to the generality of subsection (1), regulations thereunder may make provision in relation to –

- (a) the entry onto land, and the inspection and examination of land and anything thereon, for prescribed purposes by persons of prescribed descriptions,
- (b) the furnishing, keeping and obtaining, by persons of prescribed descriptions, of information, documents and records of prescribed descriptions,

^a Article XI of Billet d'État No. VIII of 1993.

- (c) the taking of copies or extracts from, and the provision of explanations as to, such documents and records,
- (d) the making of inquiries, and the answering of questions and provision of assistance and facilities, by persons of prescribed descriptions,
- (e) the taking and analysis of samples of any substance, material or other thing of a prescribed description,
- (f) the prohibition of the doing of anything which may be regulated or controlled by the regulations except under the authority of and in accordance with the conditions of a licence granted, subject to the satisfaction of such criteria as may be prescribed, by such person or body as may be prescribed,
- (g) the specifying of fees to be payable to [the Committee] in respect of the grant, renewal or variation of licences, or applications therefor, or the provision of services or documents, under or for the purposes of, or in connection with the exercise of any function arising under, any provision of this Law or any regulation under it,
- (h) the creation, trial and punishment of offences (provided that, in respect of offences triable summarily, such regulations may not specify penalties which exceed the limits of jurisdiction for the time being imposed upon the Magistrate's Court by section 10 of the Magistrate's

Court (Guernsey) Law, 1954^b),

- (i) the service of notices, and
- (j) in relation to persons doing anything which may be regulated or controlled by the regulations, the requirements as to training, testing, qualifications, competence, experience, skill and supervision,

and in this subsection the expression "**prescribed**" means prescribed by the regulations.

NOTES

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

The following Regulations have been made under section 1:

*Control of Poisonous Substances (Guernsey) Regulations, 2014;
Control of Poisonous Substances (Guernsey) (Amendment)
Regulations, 2017;
Control of Poisonous Substances (Guernsey) (Amendment)
Regulations, 2020;
Control of Poisonous Substances (Fees) (Guernsey) Regulations,
2021.*

The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

Codes of practice in respect of poisonous substances.

^b Ordres en Conseil Vol. XVI, p. 103; Vol. XXVII, p. 170; Vol. XXVIII, p. 5; and No. V of 1989.

2. (1) [The Committee] may, in respect of any matter as to which it can make regulations under this Law, prepare codes of practice containing recommendations for the guidance of persons doing anything which may be regulated or controlled by such regulations.

(2) [The Committee] shall cause any such code of practice to be printed and put on sale at such price as [the Committee] may determine or distributed free of charge.

(3) A contravention by any person of a provision of a code under this section shall not of itself render him liable to civil or criminal proceedings but the contravention may, in any such proceedings in which there is in issue a liability, claim or contention in relation to which the provision of the code appears to the court to be relevant, be relied upon by any party to the proceedings as tending to establish or negative the liability, claim or contention.

NOTE

In section 2, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

Interpretation.

3. In this Law, unless the context requires otherwise –

"[the Committee]" means the [States of Guernsey [Committee for Employment & Social Security]],

"**contravention**" includes failure to comply;

"**poisonous substance**" means a substance declared by regulations of

[the Committee] to be a poisonous substance for the purposes of this Law.

NOTES

In section 3,

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

the words in the second pair of square brackets in the definition of the expression "the Committee" were substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 13, with effect from 31st October, 1996.

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

The following Regulations have been made under section 3:

*Control of Poisonous Substances (Guernsey) Regulations, 2014;
Control of Poisonous Substances (Guernsey) (Amendment)
Regulations, 2017;
Control of Poisonous Substances (Guernsey) (Amendment)
Regulations, 2020.*

General provisions as to regulations and codes.

4. (1) Regulations of [the Committee] under this Law –
 - (a) may be amended or repealed by subsequent regulations hereunder,

- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to [the Committee] to be necessary or expedient,
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any power conferred upon [the Committee] by this Law to make regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

- (iii) any such provision either unconditionally or subject to any prescribed conditions.

(3) Regulations under this Law may make provision by reference to, and may adopt or incorporate (by reference, annexation or otherwise), any provision of –

- (a) any Act of Parliament,
- (b) any order, rule, regulation, scheme, warrant, byelaw or other instrument made under any such Act, or
- (c) any code of practice, circular or other document or material issued by or on behalf of Her Majesty's Government in the United Kingdom,

which provision shall (subject to any exceptions, adaptations and modifications specified in the regulations) thereupon have the same force and effect as regulations under this Law.

(4) References in subsections (1), (2) and (3) to regulations under this Law shall be deemed to include references to codes of practice prepared by [the Committee] under section 2; and accordingly those subsections shall apply in relation to such codes as they apply in relation to such regulations.

NOTE

In section 4, the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.³

Repeal of Law of 1958.

5. The Poisonous Substances (Guernsey) Law, 1958, as amended^c, is repealed.

Citation.

6. This Law may be cited as the Poisonous Substances (Guernsey) Law, 1994.

Commencement.

7. This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions.

NOTE

The Law was brought into force on 1st November, 1995 by the Poisonous Substances (Commencement) Ordinance, 1995, section 1.

¹ The words "Committee for Employment & Social Security" were previously substituted by the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 13, with effect from 31st October, 1996; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

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

^c Ordres en Conseil Vol. XVII, p. 378 and Ordinance No. XXV of 1991.

(Transfer of Functions) Ordinance, 1996, section 1, Schedule 1, paragraph 13, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance.

³ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.