

PROJET DE LOI

ENTITLED

The Public Health (Vermin) (Guernsey) Law, 1948 *

[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

* Ordres en Conseil Vol. XIII, p. 367; as amended by the Education (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 318); the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 329); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); 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). This Law is applied to Alderney by the Alderney Public Health (Vermin) Law Application Ordinance, 1949 (Recueil d'Ordonnances Tome X, p. 11). See also the Reform (Guernsey) Law, 1948 (Ordres en Conseil Vol. XIII, p. 288); the Magistrate's Court (Guernsey) Law, 1954 (Ordres en Conseil Vol. XVI, p. 103).

PROJET DE LOI

ENTITLED

The Public Health (Vermin) (Guernsey) Law, 1948

ARRANGEMENT OF SECTIONS

1. Cleansing of filthy or verminous premises.
2. Cleansing or destruction of filthy or verminous articles.
3. Vessels.
4. Tents and vans.
5. Cleansing of verminous persons and their clothing.
6. ...
7. Provision of cleansing stations.
8. Summary proceedings.
9. Continuing offences and penalties.
10. Protection of members of the Committee and their officers from personal liability.
11. Power of entry.
12. Penalty for obstructing execution of the Law.
13. Compensation for damage.
14. Power of Court to make Ordinances.
15. Interpretation.
16. Repeal.

PROJET DE LOI

ENTITLED

The Public Health (Vermin) (Guernsey) Law, 1948

THE STATES, in pursuance of their Resolution of the 14th day of February, 1948, have approved the following provisions which, subject to the Sanction of His Most Excellent Majesty in Council, shall have force of law in this Island and the Islands of Herm and Jethou.

Cleansing of filthy or verminous premises.

1. (1) Where it appears to the [Committee] upon a certificate from the Medical Officer of Health or a sanitary inspector that any premises used for human habitation –

- (a) are in such a filthy or unwholesome condition as to be prejudicial to health, or
- (b) are verminous,

the [Committee] may give notice to the owner or occupier of the premises requiring him to take such steps to remedy the condition of the premises by cleansing, disinfecting and white washing them, as may be specified in the notice, and in the case of verminous premises the notice may require, among other things, the removal of the wallpaper or other covering on the walls, and the taking of such other steps as may be necessary for the purpose of destroying or removing vermin.

(2) If a person on whom a notice under this section is served fails to comply with the requirements thereof, the [Committee] may itself carry out the requirements and recover from him the expenses reasonably incurred in so doing, and without prejudice to the right of the [Committee] to exercise that power, he shall be liable to a fine not exceeding [level 1 on the uniform scale] and to a further fine not exceeding [£20] for each day on which the offence continues after conviction therefor:

PROVIDED that in any proceedings under this subsection it shall be a defence to any defendant to show that the [Committee]'s requirements, or its decision to address its notice to him and not to the occupier or, as the case may be, the owner of the premises, are unreasonable.

(3) Where the [Committee] takes action on the ground set out in paragraph (b) of subsection (1) of this section, the notice may require that the [Committee] shall be allowed to employ gas for the purpose of destroying vermin on the premises, but in that case the notice shall be served both on the owner and on the occupier of the premises, and the [Committee] shall bear the cost of its operations and may provide temporary shelter or house accommodation for any person compelled to leave any premises by reason of those operations.

NOTES

In section 1,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in the third pair of square brackets in subsection (2) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;¹

the symbol and figures in the fourth pair of square brackets in subsection (2) were substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

The Law is applied to the Island of Alderney by the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 1, with effect from 13th April, 1949, subject to the adaptations and modifications set out in section 2 of the 1949 Ordinance.

In its application to the Island of Alderney, section 1 is modified in accordance with the provisions of the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 2(a), with effect from 13th April, 1949.

Cleansing or destruction of filthy or verminous articles.

2. Where it appears to the [Committee] upon a certificate of the Medical

Officer of Health or a sanitary inspector that any article in any premises –

- (a) is in so filthy a condition as to render its cleansing, purification or destruction necessary in order to prevent injury, or danger of injury, to the health of any person in the premises, or
- (b) is verminous or, by reason of its having been used by, or having been in contact with, any verminous person, is likely to be verminous,

the [Committee] may cause that article to be cleansed, purified, disinfected or destroyed, as the case may require, at the [Committee]'s expense, and, if necessary for that purpose, to be removed from the premises.

NOTES

In section 2, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 2 is modified in accordance with the provisions of the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 2(a), with effect from 13th April, 1949.

Vessels.

3. (1) In relation to any vessel the provisions of this law shall have effect as if –

- (a) the vessel were a house or building, and
- (b) the master, or other officer or person in charge, of the vessel were the occupier.

(2) This section shall not apply to any vessel belonging to His Majesty or under the command or in charge of an officer holding His Majesty's commission, or to any vessel belonging to a foreign government.

Tents and vans.

4. The provisions of this Law shall apply to tents, vans, sheds and similar structures used for human habitation as they apply to other premises and as if a tent, van, shed or similar structure used for human habitation were a house or building so used.

Cleansing of verminous persons and their clothing.

5. (1) Upon the application of any person, the [Committee] may take such measures as are, in its opinion, necessary to free him and his clothing from vermin.

(2) Where it appears to the [Committee], upon a report from the Medical Officer of Health or from a sanitary inspector, that any person, or the clothing of any person, is verminous, then, if that person consents to be removed to the cleansing station, the [Committee] may cause him to be removed to such a station, and, if he does not so consent, the [Committee] may apply to the Police Court, and the Court, if satisfied that it is necessary that he or his clothing should be cleansed, may make an order for his removal to such a station and for his detention therein for such period and subject to such conditions as may be specified in the order.

(3) Where a person has been removed to a cleansing station in pursuance of the last foregoing subsection, the [Committee] shall take such measures as may, in their opinion, be necessary to free him and his clothing from vermin.

(4) The cleansing of females under this section shall be carried out only by a registered medical practitioner, or by a woman authorised by the Medical Officer of Health.

(5) Any consent required to be given for the purposes of this section may, in the case of a person under the age of sixteen years or of a person under guardianship by reason of his mental illness, be given on his behalf by his parent or guardian.

(6) No charge shall be made in respect of the cleansing of a person or his clothing, or in respect of his removal to, or maintenance in, a cleansing station under this section.

(7) The powers conferred on the [Committee] by this Law shall be in addition to, and not in derogation from, any power in relation to the cleansing of children which may be exercisable by any States education authority.

NOTES

In section 5, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

In its application to the Island of Alderney, section 5 is modified in accordance with the provisions of the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 2, with effect from 13th April, 1949.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), the expression "Police Court" in this section shall be deemed to refer to the Magistrate's Court, with effect from 17th January, 1955.

Children. School.

6. ...

NOTE

Section 6 was repealed by the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

Provision of cleansing stations.

7. The [Committee] may provide such cleansing stations as may be necessary for the discharge of its functions under any of the provisions of this Law.

NOTE

In section 7, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Summary proceedings.

8. Any offence under this Law shall be prosecuted before the Police Court.

NOTES

In its application to the Island of Alderney, section 8 is modified in accordance with the provisions of the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 2(b), with effect from 13th April, 1949.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 1(3), the summary jurisdiction in criminal matters of the Ordinary Court sitting as a Police Court was abolished, with effect from 17th January, 1955, save as respects criminal matters arising in the Islands of Alderney and Sark.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), the expression "Police Court" in this section shall be deemed to refer to the Magistrate's Court, with effect from 17th January, 1955.

Continuing offences and penalties.

9. Where provision is made by or under this Law for the imposition of a daily penalty in respect of a continuing offence, the Court may fix a reasonable period from the date of conviction for compliance by the defendant with any directions given by the Court and, where the Court has fixed such a period, the daily penalty shall not be recoverable in respect of any day before the expiration thereof.

Protection of members of the [Committee] and their officers from personal liability.

10. No matter or thing done, and no contract entered into by the [Committee] [...], and no matter or thing done by any member or officer of the [Committee] [or of the Education Council] or other person whomsoever acting under the direction of the [Committee] [or of the Education Council], shall, if the matter or thing were done or the contract were entered into in good faith for the purpose of executing this Law, subject them or any of them personally to any action, liability, claim or demand whatsoever; and any expense incurred by the [Committee] [...] or by such member, officer or other person acting as last

aforesaid shall be borne and repaid out of moneys provided for that purpose by the States of Guernsey.

NOTES

In section 10,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words omitted in square brackets were repealed by the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

The words in square brackets shown, incorrectly, as "or of the Education Council" in this section should have been, but were not, repealed by the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

Power of entry.

11. (1) Subject to the provisions of this section, any person authorised by the [Committee] shall, on producing, if so required, some duly authenticated document showing his authority, have a right to enter any premises at all reasonable hours –

- (a) for the purpose of ascertaining whether or not circumstances exist on or in connection with those premises which would authorise or require the [Committee] to take any action, or execute any work, under this Law or any Ordinance made thereunder,
- (b) for the purpose of taking any action, or executing any work, authorised by this Law or any such Ordinance, or any order made under this Law, to be taken, or executed, by the [Committee],
- (c) generally, for the purpose of the performance by the [Committee] of its functions under this Law or any such Ordinance:

PROVIDED that admission to any premises, not being a factory, workshop or workplace, shall not be demanded as of right unless twenty-four hours' notice of the intended entry has been given to the occupier.

- (2) If it is shown to the satisfaction of the Police Court –
- (a) that admission to any premises has been refused, or that refusal is apprehended, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that a request for admission would defeat the object of the entry, and
 - (b) that there is reasonable ground for entry into the premises for any such purpose as is specified in this section,

the Court may by warrant authorise the [Committee] by any authorised officer to enter the premises, if need be by force:

PROVIDED that such a warrant shall not be issued unless the Court is satisfied either that a notice of the intention to apply for a warrant has been given to the occupier, or that the premises are unoccupied, or that the occupier is temporarily absent, or that the case is one of urgency, or that the giving of such notice would defeat the object of the entry.

(3) An authorised officer entering any premises by virtue of this section, or of a warrant issued thereunder, may take with him such other persons as may be necessary, and on leaving any unoccupied premises which he has entered by virtue of such a warrant shall leave them as effectually secured against trespassers as he found them.

(4) Every warrant granted under this section shall continue in force until the purpose for which the entry is necessary has been satisfied.

(5) If any person who in compliance with the provisions of this section or of a warrant issued thereunder is admitted into a factory, workshop or workplace discloses to any person any information obtained by him in the factory, workshop or workplace with regard to any manufacturing process or trade secret, he shall, unless such disclosure was made in the performance of his duty, be liable to a fine not exceeding [level 2 on the uniform scale] or to imprisonment for a term not exceeding three months.

NOTES

In section 11,

the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016;

the words and figure in square brackets in subsection (5) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

In its application to the Island of Alderney, section 11 is modified in accordance with the provisions of the Alderney Public Health (Vermin) Law Application Ordinance, 1949, section 2(b), with effect from 13th April, 1949.

In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 1954, section 10(3) (as originally enacted), the expression "Police Court" in this section shall be deemed to refer to the Magistrate's Court, with effect from 17th January, 1955.

Penalty for obstructing execution of the Law.

12. A person who wilfully obstructs any person acting in the execution of his duties under this Law or any Ordinance, order or warrant made or issued thereunder shall, in any case for which no other provision is made by this Law or by the Ordinance in question, be liable to a fine not exceeding [level 1 on the uniform scale].

NOTE

In section 12, the words and figure in square brackets in subsection (5) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.²

Compensation for damage.

13. (1) The [Committee] shall make full compensation to any person who has sustained damage by reason of the exercise by the [Committee] of any of its powers under this Law in relation to a matter as to which he has not himself been in default.

(2) Any dispute arising under this section as to the fact of damage, the default of any person or the amount of compensation shall be determined by the Royal Court sitting as an Ordinary Court, whose decision shall be final.

NOTE

In section 13, the word "Committee" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 6, with effect from 1st May, 2016.

Power of Court to make Ordinances.

14. The Royal Court may pass such Ordinances as it may from time to time deem necessary to give effect to this Law.

NOTE

In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred the like power on the States of Deliberation or on the States Legislation Select Committee, as the case may be.

Interpretation.

15. In this Law, where the context so admits, the following expressions shall have the meanings hereby respectively assigned to them –

"[**Committee**]" means the States [Committee for Health & Social Care],

"**premises**" includes buildings, lands and hereditaments of any tenure,

"**sanitary inspector**" shall have the same meaning as in the Loi relative à la Santé Publique, 1934,

[...]

"**vermin**", in its application to insects and parasites, includes their eggs, larvae and pupas, and the expression "**verminous**" shall be construed accordingly,

"**vessel**" includes any ship or boat, or any other description of vessel used in navigation.

NOTES

In section 15,

the words in the first and second pairs of square brackets in the definition of the expression "Committee" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 6 and section 2, Schedule 1, paragraph 5, with effect from 1st May, 2016;³

the words omitted in the second pair of square brackets were repealed by the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

The functions, rights and liabilities of the Health and Social Services Department and of its Minister or Deputy Minister arising under or by virtue of these Regulations were transferred to and vested in, respectively, the Committee for Health & Social Care and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 5, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

Repeal.

16. ...

NOTES

Section 16 was repealed by the Education (Guernsey) Law, 1970, section 60, Schedule, with effect from 28th October, 1970.

The Law received Royal Sanction on 8th October, 1948 and was registered on the Records of the Island of Guernsey and came into force on 30th October, 1948.

¹ These words and figures were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

² These words were previously substituted by the Public Health and Related Offences (Increase in Fines) (Guernsey) Law, 1986, section 1, Schedule, with effect from 16th December, 1986.

³ The words "Committee for Health & Social Care" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 4, with effect from 6th May, 2004.

⁴ The functions, rights and liabilities of the Health and Social Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in them, respectively, from the Board of Health and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 4, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.