

# 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. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. 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.*

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\* No. XVIII of 1994; as amended by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003).

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## **The Poisonous Substances (Guernsey) Law, 1994**

### ARRANGEMENT OF SECTIONS

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2. Codes of practice in respect of poisonous substances.
3. Interpretation.
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## **The Poisonous Substances (Guernsey) Law, 1994**

**THE STATES**, in pursuance of their Resolution of the 26<sup>th</sup> day of May, 1993<sup>a</sup>, 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 Board 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

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<sup>a</sup> Article XI of Billet d'État No. VIII of 1993.

*Consolidated text*

and records of prescribed descriptions,

- (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 Board 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<sup>b</sup>),

- (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.

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**NOTES**

*The following Regulations have been made under section 1:*

*Control of Poisonous Substances Regulations, 1995.*

*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.*

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**Codes of practice in respect of poisonous substances.**

2. (1) The Board 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

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

regulated or controlled by such regulations.

(2) The Board shall cause any such code of practice to be printed and put on sale at such price as the Board 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.

**Interpretation.**

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

"**the Board**" means the [States of Guernsey [Commerce and Employment Department]],

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

"**poisonous substance**" means a substance declared by regulations of the Board to be a poisonous substance for the purposes of this Law.

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**NOTES**

*In section 3,*

*the words in square brackets in the definition of the expression "the Board" 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 words in square brackets within the square brackets in the definition of the expression "the Board" in subsection (1) were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.*

*The functions, rights and liabilities of the Board of Industry and of its President arising under or by virtue of this Law were transferred to and vested in, respectively, the Commerce and Employment Department and its Minister 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.<sup>1</sup>*

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**General provisions as to regulations and codes.**

4. (1) Regulations of the Board 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 Board 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 Board by this Law to make regulations may be exercised –

*Consolidated text*

- (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 Board under section 2; and accordingly those subsections shall apply in relation to such codes as they apply in relation to such regulations.

**Repeal of Law of 1958.**

5. The Poisonous Substances (Guernsey) Law, 1958, as amended<sup>c</sup>, 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.

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**NOTE**

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

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<sup>c</sup> Ordres en Conseil Vol. XVII, p. 378 and Ordinance No. XXV of 1991.

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<sup>1</sup> 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 (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.