

*Consolidated text*

**ORDINANCE**  
**OF THE STATES OF DELIBERATION**

ENTITLED

**The Environmental Pollution (Waste Control and Disposal)**  
**Ordinance, 2010** \*

*[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. \*\* of 2010.

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Environmental Pollution (Waste Control and Disposal) Ordinance, 2010**

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*(Made on the 28th April, 2010.)*

## **The Environmental Pollution (Waste Control and Disposal) Ordinance, 2010**

**THE STATES**, in pursuance of their Resolutions of the 26<sup>th</sup> February, 1997<sup>a</sup>, 11<sup>th</sup> December 2003<sup>b</sup> and 10<sup>th</sup> December, 2009<sup>c</sup>, and in exercise of the powers conferred on them by Parts I, III to V, IX and X of the Environmental Pollution (Guernsey) Law, 2004<sup>d</sup> and all other powers enabling them in that behalf, hereby order: –

### PART I

#### PRESCRIBED OPERATIONS AND LICENSING

##### **Waste disposal etc. to be prescribed operations.**

1. (1) Subject to section 3, the following operations, being operations which, in the opinion of the States, may involve a risk of environmental pollution, are prescribed as operations for the carrying on of which a licence is required under Part III of the Law –

- (a) the collection, removal, transportation or handling of waste (other than specially controlled waste), when carried on by way of business or as a public service,
- (b) the sorting, processing, treating, storage or disposal of

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**a** Billet d'État No. II of 1997.

**b** Article VI of Billet d'État No. XXVIII of 2003.

**c** Article XVI of Billet d'État No. XXXIII of 2009.

**d** Order in Council No. XIII of 2004.

waste in any circumstances, and

- (c) the provision or operation of any site, plant or equipment for the sorting, treatment, processing or disposal of waste.

(2) For the avoidance of doubt –

- (a) land-fill and land reclamation operations both involve the provision of a site for the disposal of waste within the meaning of subsection (1)(c), and

- (b) the expression "**disposal of waste**" in subsection (1)(c), includes disposal of waste by way of its discharge to the sea –

- (i) using any land-based plant or equipment,

- (ii) via a sewer, pipe or conduit, or

- (iii) by any other means.

**Restriction on issue of licences for certain types of prescribed operations.**

2. A licence permitting the provision or operation of any site, plant or equipment for the disposal of waste, may not be issued to any person under the Law other than –

- (a) the States, or

- (b) a person authorised in writing for the purpose by the States.

**Exemptions.**

3. (1) The Director may, having regard to any States' Direction or States' Guidance –

- (a) by regulation exempt any description of operation, or
- (b) by written notice exempt any specified operation,

from the requirement to hold a licence under the Law where, in his opinion, the carrying on of the operation does not involve a significant risk of environmental pollution.

(2) An exemption under subsection (1)(a) may be made subject to such terms and conditions as may be specified in the regulation and such a condition may include, without limitation, a requirement for any person carrying on such an exempted operation to be registered with the Director.

(3) The Director may by regulations make provision in relation to the establishment and maintenance by the Director, in accordance with the regulations, of a register of persons carrying on operations exempted under this section including, without limitation, provision with respect to –

- (a) the form and manner in which any register is to be maintained,
- (b) the information which is to be provided by the person carrying on the exempted operation,
- (c) applications for registration,

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- (d) the information to be incorporated in any register maintained by the Director,
  - (e) the provision by the Director, to such extent and manner as may be prescribed, of facilities for making the information contained in the entries in the register available for public inspection at such reasonable times during such business days as the Director may from time to time determine, and
  - (f) the Director enabling copies of that information to be taken or obtained by the public upon payment of the relevant fee.
- (4) An exemption under subsection (1)(b) –
- (a) may be granted to a specified person or class of persons,
  - (b) may be granted subject to such terms and conditions as may be specified,
  - (c) when granted to a particular class of persons, shall be published, and
  - (d) unless previously revoked in accordance with any term contained in the exemption, shall continue in force for such period as may be specified, or determined, by or under the exemption.
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**NOTE**

*The following Regulations have been made under section 3:*

*Waste Control and Disposal (Exemptions) Regulations, 2010.*

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**Licence and related applications and fees.**

4. (1) An application –
- (a) for a licence,
  - (b) for renewal of a licence,
  - (c) for the surrender of a licence,
  - (d) for the transfer of a licence, or
  - (e) to vary any condition of a licence,

shall be made in such manner as the Director thinks fit including, without limitation, by means of the submission to the Director of a specified form of application completed in such manner as he may approve.

- (2) An application of a type mentioned in subsection (1) shall be accompanied by –
- (a) such plans, maps and other documents, including copies of any specified form or other document, as may be specified for the purpose by the Director,
  - (b) such evidence, relating to such permission to carry out development under the Island Development (Guernsey)

Law, 1966<sup>e</sup> or the Land Planning and Development (Guernsey) Law, 2005<sup>f</sup>, as may be specified for the purpose by the Director, and

(c) such fee as may be prescribed.

(3) A licensee must pay such annual or other periodic fee as may be prescribed and regulations made under this subsection may include provision as to whom the payment is to be made and for the payment of interest or penalties in the event of default in the due payment of a fee.

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**NOTE**

*The following Regulations have been made under section 4:*

*Environmental Pollution (Waste Control and Disposal) (Fees) Regulations, 2010.*

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**Requirements for applications and accompanying plans, maps and other documents.**

5. (1) The Director is not obliged to consider an application made under this Part unless –

- (a) it complies with the requirements of section 4,
- (b) any specified form of application has been fully

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<sup>e</sup> Ordres en Conseil Vol. XX, p. 276; Vol. XXII, p. 573; Vol. XXIII, p. 231; Vol. XXVII, p. 355; Vol. XXXI, p. 61; Vol. XXXII, p. 33; repealed with savings by Order in Council No. XVI of 2005; see also Recueil d'Ordonnances Tome XXXII, p. 483.

<sup>f</sup> Order in Council No. XVI of 2005 as amended by Recueil d'Ordonnances, Tome XXXII, p. 224, 257, 369, 419 and 439.

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completed by the applicant,

(c) the application satisfies the requirements set out in subsection (2), and

(d) the plans, maps and other documents, which are submitted with the application are accurate, clear and as reasonably up to date as is possible in the circumstances and are –

(i) certified in such manner, and

(ii) supplied together with such number of copies,

as may be specified for the purposes of the relevant application.

(2) The requirements for the purposes of subsection (1)(c) are that the application –

(a) properly identifies –

(i) the relevant licensee or prospective licensee, and

(ii) the owner and occupier of any site, plant, equipment or premises, which are the subject of, or otherwise relevant to, the application, and

(b) contains sufficient information to enable the Director –

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- (i) to satisfy himself that any site, plant, equipment or premises, which are the subject of, or otherwise relevant to, the application, will be developed and operated to the standard required under the Law,
- (ii) to impose such conditions as may be reasonably necessary in the circumstances of the application, and
- (iii) to carry out, or arrange for the carrying out of, any appropriate investigatory or supervisory function.

PART II  
APPEALS

**Amendment of sections 24 and 25 of the Law.**

6. (1) The Law is amended as follows.

(2) In section 24(6) of the Law (establishment of the Environmental and Public Health Appeals Panel and Tribunal) –

- (a) for the words "the appointment, constitution, proceedings and powers of the Tribunal" substitute "the establishment, appointment, constitution, proceedings, functions and administration of the Panel or the Tribunal",
- (b) at the end of paragraph (a), omit the word "and",

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(c) in paragraph (b), after the words "members of" insert "the Panel or of", and

(d) at the end add –

", and

(c) the appointment of a secretary or other officers to the Panel or the Tribunal or for the provision of facilities to the Panel or the Tribunal."

(3) For section 25(8) of the Law (effect of decisions pending an appeal) substitute the following subsections –

" (8) The effect of a decision in respect of which an appeal may be made under this section shall not be suspended in consequence of the right of appeal except in respect of a decision to –

(a) refuse to grant an application for a renewal of a licence upon the expiry of a previous licence for substantially the same operations, or

(b) revoke a licence.

(8A) Where the Director makes a decision falling within paragraph (a) or (b) of subsection (8), the decision shall be suspended and the licence in question shall continue to have effect until –

(a) the expiry of the period for appealing under subsection (5), or

- (b) where an appeal is duly instituted, the appeal is finally determined or withdrawn; and the appeal is finally determined when the appeal and any further appeal is finally determined."

**Provisions relating to the Environmental and Public Health Appeals Panel and Tribunal.**

7. The provisions of sections 8 to 16 shall have effect in relation to –
- (a) the Environmental and Public Health Appeals Panel ("**the Panel**") drawn up under the provisions of section 24(1) of the Law, and
  - (b) an Environmental and Public Health Appeals Tribunal ("**the Tribunal**") appointed under the provisions of section 24(5) of the Law.

**Designation of President of Panel.**

8. The States shall, when drawing up the Panel under the provisions of section 24(1) of the Law, designate one of the members of the Panel as President and another as vice-President thereof.

**Duties of Director following service of summons.**

9. (1) Where an appeal to the Tribunal against a decision of the Director is instituted by summons in accordance with the provisions of section 25 of the Law the Director shall, within 7 days after service of the summons upon him –

- (a) send a copy thereof to the President of the Panel (or, if he is unavailable, to the vice-President), together with copies of the documents described in subsection (2) which –

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- (i) have been served upon the Director with the summons, or
    - (ii) are otherwise available to the Director,
  - (b) request the President (or, if he is unavailable, the vice-President) to appoint from the membership of the Panel the members of the Tribunal to hear and determine the appeal, and
  - (c) notify the appellant that he has sent a copy of the summons to the President, or the vice-President, as the case may be.
- (2) The documents for the purpose of subsection (1)(a) are –
- (a) any statement of the grounds of appeal,
  - (b) where the appeal relates to a decision concerning a licence –
    - (i) any relevant form of application,
    - (ii) any plans, maps or other documents accompanying the application, and
    - (iii) any relevant licence,
  - (c) where the appeal relates to a decision concerning a determination under section 10(5) of the Law, any

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statement of the information to which the determination relates,

- (d) where the appeal relates to a decision to refuse to consent to a collection or transport of specially controlled waste under section 28(4)(b), any proposed consignment note served on the Director under section 28(2),
- (e) where the appeal relates to a decision concerning the issue of a compliance notice, the notice,
- (f) any relevant correspondence,
- (g) any other document the Director believes is relevant for the purpose of enabling the determination of the appeal, and
- (h) any statement made by, or on behalf of, the appellant indicating whether he wishes the appeal to be dealt with –
  - (i) by way of a hearing, or
  - (ii) on the basis of written representations, without any hearing.

(3) For the purposes of subsection (2)(b), "**a decision concerning a licence**" includes –

- (a) a decision of a description set out in section 25(3)(b) to

- (i) of the Law, and
- (b) such other description of decision prescribed by Ordinance under section 25(3)(k) of the Law, which relates to or concerns a licence in any manner whatsoever.

**Constitution and appointment of Tribunal.**

**10.** (1) The Tribunal shall consist of a minimum of three and a maximum of five persons drawn from the Panel and appointed in accordance with subsection (2).

(2) Following receipt of a request under section 9(1)(b), the President or, if he is unavailable, the vice-President of the Panel shall –

- (a) from the members of the Panel, appoint the members of the Tribunal who are to hear and determine the appeal,
- (b) nominate one of the members so appointed to chair the Tribunal, and
- (c) unless he determines otherwise, cause notice to be given in La Gazette Officielle, or in such other manner as he thinks fit, of –
  - (i) the appointment and nomination under paragraphs (a) and (b), and
  - (ii) the reason for which the Tribunal has been appointed.

(3) For the avoidance of doubt, the President or vice-President may appoint and nominate himself under subsection (2)(a) and (b).

**Voting in hearings of Tribunal.**

11. (1) Each member of the Tribunal shall, subject to subsection (2), have one vote, and the decisions of the Tribunal shall be taken by a simple majority.

(2) The person chairing the Tribunal shall not have a vote except where there is an equality of votes, in which case he shall have a casting vote.

**Hearings of Tribunal to be in public.**

12. (1) A hearing and every part of a hearing before the Tribunal shall be held in public unless the Tribunal directs otherwise on the ground that it is dealing with evidence or representations –

- (a) which are commercially confidential, or
- (b) which, in the opinion of a Law Officer of the Crown, should be treated as confidential for the purpose of safeguarding the security of the British Islands.

(2) The Tribunal may at any time exclude any person who, in its opinion, is acting in a disruptive manner from a hearing or any part thereof and may –

- (a) refuse to permit that person to return, or
- (b) permit him to return only on such conditions as the Tribunal may specify,

but any such person may submit to the Tribunal any evidence or other matter in writing before the close of the hearing.

**Procedure of the Tribunal.**

**13.** (1) The Environment Department may, if requested by the Panel, by order prescribe rules of procedure making such provision as the Department, acting upon the advice of the Panel, thinks fit in relation to –

- (a) the hearing, investigation, settlement and determination by the Tribunal of appeals,
- (b) the proceedings and powers of the Tribunal including, without limitation, provision as to procedure (including the method of pleading, the practice to be followed, the means by which particular facts may be proved and the method by which evidence may be given),
- (c) the summoning of witnesses, the service of documents and otherwise as to the giving of evidence,
- (d) the carrying out by the Tribunal of any of its functions under the Law, and
- (e) ancillary matters.

(2) Rules of procedure under subsection (1) may, without limitation –

- (a) regulate procedure in connection with matters preparatory to hearings (including the publication of notice of hearings) and subsequent to hearings (including the publication, interpretation and enforcement of decisions and reasons for decisions), as

well as in connection with the conduct of hearings,

- (b) make provision for the striking out of appeals (or of any claim or application in an appeal), and
- (c) make provision as to the representation, and joining, of parties.

(3) The Tribunal shall, subject to the provisions of this Part, and subject also to the provisions of any rules of procedure made by the Environment Department under this section, determine its own procedure.

**Costs of the parties.**

**14.** Each party to an appeal shall bear its own costs incurred in connection with an appeal and, for the avoidance of doubt, the Tribunal shall not have any power to order that the costs of an appeal incurred by one party shall be paid for by another.

**Costs, fees, expenses and allowances of Panel and Tribunal members and expert witnesses.**

**15.** (1) There shall be paid to the members of the Panel and the Tribunal such allowances as the Environment Department may determine, together with the travelling and other expenses incurred by them in connection with the exercise of their functions under the Law.

(2) There shall be paid to any expert or other advisor, appointed by the Tribunal to advise in connection with the determination of any particular appeal, the reasonable charges claimed by that expert or advisor, together with any travelling and other expenses incurred by him in connection with the provision of his advice.

(3) The costs, fees, expenses and allowances described in this section shall be paid by the Environment Department from the general revenue

account of the States.

**Appointment of secretary to the Panel or the Tribunal.**

16. The Environment Department may –
- (a) appoint a secretary to the Panel or to the Tribunal on such terms and conditions and with such functions, and
  - (b) provide such other officers and facilities to the Panel or the Tribunal as the Department thinks fit.

PART III

SPECIFIED MEASURES AND PROCEDURES CONCERNING THE GENERAL  
DUTY OF CARE

**Interpretation for purposes of Part III.**

17. In this Part, unless the context requires otherwise –

"**relevant person**" means a person to whom the statutory duties apply, and

"**statutory duties**" mean the duties imposed by section 36(1) of the Law.

**Notification to Director to prevent contravention of the Law.**

18. (1) This section sets out specified measures and procedures to be followed to facilitate observance of that part of the statutory duties requiring a relevant person to take all such measures as are reasonable in the circumstances to prevent contravention of the Law and of any Ordinance or instrument made under it by any other person.

- (2) Subject to subsection (4), a relevant person, who has

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reasonable cause to believe that another person –

- (a) is, or has been, producing, keeping, handling, sorting, processing, transporting or disposing of, or
- (b) is likely to keep, handle, sort, process, transport or dispose of,

waste, in a manner which is inconsistent with the statutory duties, shall notify the Director as soon as reasonably practicable of such of the matters set out in subsection (3) as are known to him.

(3) The matters for the purpose of subsection (2) are –

- (a) the type of waste concerned,
- (b) the type of activity which the other person has undertaken or applied in relation to the waste concerned,
- (c) the place where that activity was undertaken or applied,
- (d) the date upon which that activity was undertaken or applied, and
- (e) the current location of the waste concerned.

(4) Subsection (2) does not apply to a relevant person who does not have, and never has had, control of the waste concerned.

**Power of Director to make regulations in relation to the duty to transfer waste**

**only as specified in section 36(1)(c) of the Law.**

**19.** (1) The Director may by regulations prescribe the measures and procedures that a relevant person must implement, adopt and follow to facilitate observance of a relevant person's duty to take all such measures as are reasonable in the circumstances to transfer waste only –

- (a) to a person who may lawfully handle the waste under the Law, and
- (b) with sufficient information about it to enable other persons to avoid a contravention of the Law and of any Ordinance or instrument made under it.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may specify the measures and procedures to be adopted, implemented and followed in connection with –

- (a) the information that must be provided in connection with waste, including in particular information to be provided about the waste, whether by way of a document or otherwise,
- (b) the display and dissemination of information that must be provided in connection with waste, and
- (c) the furnishing and keeping of documents or copies of documents containing information that must be provided in connection with waste.

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**NOTE**

*The following Regulations have been made under section 19:*

*Waste Control and Disposal (Duty of Care) Regulations, 2010.*

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**Power of Director to make regulations in relation to the duty to prevent the escape of waste.**

20. (1) The Director may by regulations prescribe the measures and procedures that a relevant person must adopt, implement and follow to facilitate observance of a relevant person's duty to take all such measures as are reasonable in the circumstances to prevent the escape of waste from his control.

(2) Without prejudice to the generality of subsection (1), regulations made under this section may specify the measures and procedures to be adopted, implemented and followed in connection with –

- (a) the packaging and re-packaging of waste,
- (b) the types of containers in which waste is to be placed or secured,
- (c) the types of waste that may be, or shall not be, stored or mixed together,
- (d) the security of sites, vehicles and containers which are used in connection with the producing, keeping, handling, sorting, processing, transporting or disposing of waste, and
- (e) the working practices of those employees and agents of a relevant person who are working with waste and its production, keeping, handling, sorting, processing,

transporting or disposal.

PART IV

PROHIBITIONS ETC. CONCERNING WASTE AND WASTE DISPOSAL

**Prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste.**

21. (1) Subject to subsections (2) and (3) and to any exemption under section 3, a person shall not –

(a) deposit any waste, or knowingly cause or permit any waste to be deposited in or on any land unless –

(i) that land is part of a licensed waste site, and

(ii) the deposit is in accordance with the licence granted by the Director under Part III of the Law in respect of that site,

(b) treat, keep or dispose of any waste, or knowingly cause or permit any waste to be treated, kept or disposed of –

(i) in or on any land, or

(ii) by means of any mobile plant,

except under and in accordance with a licence granted by the Director under Part III of the Law, or

(c) treat, keep or dispose of any waste in a manner likely to cause environmental pollution.

- (2) Subsection (1) does not apply to household waste –
- (a) which is not specially controlled waste, and
  - (b) which is kept or disposed of within the curtilage of the dwelling where it was produced, by or with the permission of the occupier of that dwelling.

(3) The Director may prescribe circumstances in which subsections (1)(a), (b) or (c) do not apply.

(4) Where waste is carried in and deposited from a motor vehicle, the person who controls or is in a position to control the use of the vehicle shall, for the purposes of subsection (1)(a), be treated as knowingly causing the waste to be deposited whether or not he gave any instructions for this to be done.

**Prohibition on unauthorised entry upon licensed waste site.**

22. (1) Unless authorised by the licensee, the Director or by law to do so, a person shall not enter upon a licensed waste site.

(2) A person who enters upon a licensed waste site under the authority of the licensee or the Director shall comply with –

- (a) the provisions of the licence granted by the Director under Part III of the Law in respect of that site, and
- (b) the reasonable requirements of, or conditions specified by, the licensee or the Director, as the case may be, concerning entry upon the site.

**Prohibition on sorting etc. of materials on licensed waste site.**

23. (1) Subject to subsections (2) and (3), a person shall not sort, interfere with, remove from or otherwise handle any material lying in, on or under, a licensed waste site licensed for the disposal of waste.

(2) Subsection (1) does not apply where the person –

(a) has the authority of the appropriate licensee, or the Director, to sort, interfere with, remove or otherwise handle the material concerned or is authorised by law to do so, and

(b) acts, where relevant, in accordance with any conditions subject to which the authority is granted.

(3) The Director may by regulations prescribe further circumstances in which subsection (1) does not apply.

**Defences to offences concerning contraventions of this Part.**

24. In any proceedings for an offence relating to a contravention of this Part, in addition to the defence available under section 69(1) of the Law, it shall be a defence for the accused to prove –

(a) that he acted under instructions from his employer and neither knew, nor had reason to suppose, that the acts done by him constituted an offence under the Law, or

(b) that the acts alleged to constitute the offence were done in an emergency in order to avoid danger to the public and that, as soon as reasonably practicable after they were done, particulars of them were furnished to the

Director in writing.

PART V  
SPECIALLY CONTROLLED WASTE

**Interpretation for purposes of Part V.**

25. (1) In this Part, unless the context requires otherwise –

**"approved consignment note"** in relation to a consignment or multiple consignments of specially controlled waste, means a consignment note issued by the Director under section 28(4)(a),

**"carrier"** in relation to a consignment or multiple consignments of specially controlled waste, means the person who collects that waste from the premises at which it is being held and transports it to another place,

**"consignee"** in relation to a consignment or multiple consignments of specially controlled waste, means the person to whom that waste is to be transported,

**"consignment note"** means a consignment note in the specified form, or in a form substantially similar thereto,

**"consignor"** in relation to a consignment or multiple consignments of specially controlled waste, means the person who causes that waste to be removed from the premises at which it is being held,

**"description of specially controlled waste"** or **"description of waste"** means the description by reference to the descriptions of specially controlled waste set out in section 26(1) and in any regulations made under that section and related expressions shall be construed accordingly,

**"premises"** includes buildings, structures, land in the open air and a ship,

**"producer"** in relation to a consignment or multiple consignments of specially controlled waste, means the person from whose premises the waste is being collected for transportation to the consignee, and

**"ship"** includes every description of vessel used in navigation.

(2) For the avoidance of doubt, unless the context requires otherwise, where the terms **"carrier"**, **"consignee"** or **"producer"** are used in this Part in relation to multiple consignments of waste, they include each person who is the **"carrier"**, **"consignee"** or **"producer"** for each consignment of waste.

**Description of "specially controlled waste".**

**26.** (1) A waste prescription only medicine and such other substances as may be prescribed are, subject to subsection (2), specially controlled waste for the purposes of section 37 of the Law.

(2) Specially controlled waste does not include waste arising or created in such circumstances as the Director may prescribe.

(3) Regulations made by the Director under this section may authorise him to issue guidance to which regard shall be had in determining whether or not waste is specially controlled waste.

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**NOTE**

*The following Regulations have been made under section 26:*

*Waste Control and Disposal (Specially Controlled Waste)*

*Regulations, 2010.*

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**Notification of presence on premises of specially controlled waste.**

27. (1) Subject to section 34, where any description of specially controlled waste is present on any premises at the date this section is commenced, the occupier of those premises must, subject to the following provisions of this section, within 28 days starting from the date of the commencement of this section, notify the Director of the presence of the specially controlled waste at those premises, whether as a result of being produced there or otherwise.

(2) Subject to section 34, where any description of specially controlled waste becomes present on any premises at any time after the date of commencement of this section, the occupier of those premises must, subject to the following provisions of this section, within 14 days starting from the date such waste becomes so present, notify the Director of the presence of the specially controlled waste at those premises, whether as a result of being produced there or otherwise.

(3) A notification under subsection (1) or (2) must –

(a) include a description of the specially controlled waste,  
and

(b) state the quantity of each description of specially controlled waste present on the premises.

(4) The requirements to notify the Director under subsections (2) and (5) do not apply where the specially controlled waste is present on the premises as a result of a transport of such waste to those premises in respect of which the Director has issued an approved consignment note under section 28.

(5) Subject to section 34 and to subsections (4) and (6), where

there is –

- (a) a change in the descriptions of specially controlled waste, or
- (b) a change of more than 25% in the quantity of any one description of specially controlled waste,

present on any premises, the occupier of those premises must notify the Director in writing of such changes and specify in such notification the descriptions and quantities of each description of specially controlled waste held on the premises following such changes.

(6) Where a particular description of specially controlled waste is present on premises on a regular basis, but is not continually present on those premises, the occupier of those premises need only notify the Director of the presence of such waste under subsection (2) on the first occasion, after the date of commencement of this section, that it becomes so present provided that such notification –

- (a) identifies any description of waste which is likely to be present on a regular but not continuous basis, and
- (b) indicates the periods of time during which such description of waste is likely to be present at the premises.

**Prohibition on collection or transport of specially controlled waste without consent.**

28. (1) Subject to section 34, a person shall not collect or transport specially controlled waste, otherwise than in accordance with the conditions of a

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written consent issued by the Director under this section.

(2) Subject to section 34, the proposed consignor of a consignment of specially controlled waste shall –

- (a) at least 10 days before it is intended to collect and transport that waste, or
- (b) where multiple consignments of waste may be approved as set out in subsection (3), at least 10 days before it is intended to collect and transport the first consignment of waste,

give notice to the Director of the intended collection and transportation, by way of the service upon him of a consignment note containing the specified particulars relating to the consignment or multiple consignments in question.

(3) Multiple consignments of specially controlled waste may be approved by the Director if a person proposes to collect and transport 3 or more consignments of waste within a 12 month period and each consignment of waste is of –

- (a) the same description and quantity and the carrier, consignee and producer are the same for each consignment, or
- (b) substantially the same description and quantity and the Director has indicated in writing, before the proposed consignor gives notice to him under subsection (2), that he considers that he may grant consent for multiple consignments of such waste taking into account all the

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relevant circumstances.

(4) Following service upon him of a consignment note under subsection (2), the Director shall, by the time referred to in subsection (5) –

- (a) grant consent for the purposes of subsection (1) by issuing to the proposed consignor an approved consignment note, with the Director's consent endorsed thereon in writing, together with any conditions subject to which his consent is given, or
- (b) refuse consent by sending to the proposed consignor a notice in writing with the reasons for refusal indicated thereon.

(5) The time referred to in subsection (4) is –

- (a) at least 3 days before it is intended to collect and transport the waste referred to in the note, or
- (b) in the case of consignment notes relating to multiple consignments of waste, at least 3 days before it is intended to collect and transport the first consignment of waste.

(6) An approved consignment note relating to multiple consignments of waste remains valid for 12 months from its date of issue.

**Decision of the Director to refuse consent under section 28(4)(b) to be decision against which appeal shall lie.**

**29.** A decision of the Director to refuse consent under section 28(4)(b) is a

decision which is prescribed, for the purposes of section 25(3) of the Law, as a decision against which an appeal shall lie under that section.

**Retention of and other requirements concerning consignment notes.**

**30.** (1) Where an approved consignment note is issued by the Director under section 28(4)(a), the consignor shall send a copy of the note to the persons referred to in subsection (2).

(2) The persons for the purpose of subsection (1) are –

- (a) the carrier,
- (b) the consignee, and
- (c) the producer.

(3) The persons referred to in subsection (2) shall retain the copy of any approved consignment note received by them under this section, and the consignor shall retain the approved consignment note issued to him, for a period of at least 5 years from the date of issue of the note.

(4) The producer, consignor, carrier and consignee shall, if requested by the Director –

- (a) produce any approved consignment note or copy note in their possession to him for inspection, and
- (b) provide him with a copy of the consignment note or copy note.

(5) The producer shall ensure that –

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- (a) the copy of the approved consignment note which –
  - (i) has been received by him under this section, or
  - (ii) where he is both producer and consignor, has been issued to him by the Director,

is signed by or on behalf of the carrier at the time that the consignment is collected for transportation, and

- (b) the time and date of the collection of the consignment are marked on the copy of the approved consignment note.

- (6) The carrier shall ensure that –

- (a) the copy of the approved consignment note which has been received by him under this section –

- (i) accompanies the consignment for the duration of its journey, and

- (ii) is signed by or on behalf of the consignee upon delivery, and

- (b) the time and date of the delivery of the consignment are marked on the copy of the approved consignment note.

(7) The carrier and the consignee shall, subject in the case of the consignee to section 31, sign an approved consignment note produced to them for

signature by the producer or carrier for the purposes of subsection (5) or (6), as the case may be.

(8) For the avoidance of doubt, where an approved consignment note relates to more than one consignment of waste, the requirements of subsections (5) to (7) in relation to signing, and marking of information on, the note must be met in relation to each consignment of the waste approved by the note.

**Duties of consignees and others when delivery of a consignment not accepted.**

31. (1) This section applies where the consignee does not accept delivery of a consignment of specially controlled waste including, for the avoidance of doubt, a consignment approved as one of multiple consignments of waste.

(2) In a case to which this section applies –

(a) the carrier –

(i) need not comply with section 30(6)(a)(ii) and (b),

(ii) shall inform the Director and the consignor that delivery has not been accepted by the consignee, and

(iii) shall take all reasonable steps to ensure that such of the alternative instructions concerning the transportation and storage of the consignment set out in subsection (3), and notified to him by the consignor, are carried out,

(b) the consignee –

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- (i) need not comply with section 30(7), and
- (ii) shall send a written explanation of his reasons for not accepting delivery, including –
  - (A) such details of the consignment and of the carrier, and
  - (B) such information concerning the location of the consignment,as are known to him, to the Director, and
- (c) the consignor, upon being informed that the consignee will not accept delivery of the consignment shall –
  - (i) inform the Director that delivery has not been accepted by the consignee, and
  - (ii) give notice in writing to the carrier of one of the alternative instructions concerning the transportation and storage of the consignment set out in subsection (3).

(3) For the purposes of subsection (2)(a)(iii) and (c)(ii), the alternative instructions are –

- (a) delivery of the consignment to the premises from which it has been collected,

- (b) delivery of the consignment to the premises at which it has been produced,
- (c) delivery of the consignment to premises in respect of which there is held a licence, granted by the Director under Part III of the Law, to store or dispose of specially controlled waste of the type comprising the consignment.

**Specially controlled waste on ships.**

32. For the avoidance of doubt, the provisions of this Part apply in relation to the landing in Guernsey of specially controlled waste from ships and to the subsequent collection and transportation of that waste.

**Alteration etc. of approved consignment note.**

33. A person shall not alter, write upon or deface an approved consignment note, or any details or specified particulars comprised within, or forming part of, an approved consignment note, unless the alteration, writing or defacement is –

- (a) authorised by the Director, or
- (b) necessary in order to discharge or comply with any duty, obligation or requirement imposed under this Part.

**Exemptions.**

34. The Director may by regulations provide for exemptions from the requirements of this Part including, without limitation, exemptions applying in particular circumstances, to particular persons or to particular descriptions of specially controlled waste.

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**NOTE**

*The following Regulations have been made under section 34:*

*Waste Control and Disposal (Specially Controlled Waste) Regulations, 2010.*

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**PART VI**

**DIRECTOR'S STATUTORY POWERS OF ENTRY, EXAMINATION,  
INSPECTION AND INVESTIGATION AND TO ISSUE COMPLIANCE NOTICES**

**Statutory powers of entry upon premises.**

**35.** (1) Subject to subsection (3), the Director may enter any premises without the consent of the owner or occupier thereof for the purposes indicated in subsection (2) and the power to enter created by this section includes the power, exercisable by the Director, to take with him on to the premises concerned –

- (a) any person authorised by the Director including, where he has reasonable cause to apprehend any serious obstruction in the carrying out of his functions, a police officer, and
- (b) any equipment or materials required for any purpose for which the power of entry is being exercised.

(2) The purposes are –

- (a) establishing whether any prohibition, restriction, requirement or condition –
  - (i) imposed by or under this Ordinance, or the Law, and

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(ii) for which he is responsible for regulating,

is being, or has been, complied with,

(b) where the Director reasonably believes that any premises or activity is a source, or potential source, of environmental pollution or nuisance –

(i) inspecting or examining any –

(A) plant or equipment,

(B) substance or article, or

(C) any waste or by-product,

(ii) investigating any contravention of this Ordinance or the Law or any instrument made under the Law, or

(iii) taking any sample,

located upon or relating to those premises or that activity, and

(c) exercising any other power conferred on the Director by or under this Ordinance, or the Law.

(3) The power of entry under subsection (1) shall not be exercisable –

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(a) in the case of private premises (other than in a case of emergency), unless –

(i) it is exercised at a reasonable time of the day,  
and

(ii) the Director –

(A) gives to the owner or occupier of the premises concerned at least 24 hours notice of his intention to enter the premises, and

(B) if requested by the owner or occupier of the premises, produces evidence of his authority, or

(b) in the case of premises used wholly as a dwelling except under, and in accordance with –

(i) the authority of a warrant issued by the Bailiff under, and

(ii) the provisions of,

section 36.

(4) In this section "**private premises**" means all premises other than premises –

- (a) which are wholly owned and occupied by the States,
- (b) which are used wholly as a dwelling, or
- (c) which are, or have been (and the condition of which is reasonably believed to be such as to give rise to a significant risk of environmental pollution), used for the purposes of a prescribed operation.

**Warrant to enter dwelling.**

36. (1) If the Bailiff is satisfied by information on oath supplied by the Director that there are reasonable grounds for suspecting that any premises used wholly as a dwelling (or any articles or substances or other thing which may be in or on such dwelling) is in a condition giving rise to a significant risk of environmental pollution, he may grant a warrant to the Director.

(2) A warrant granted under subsection (1) shall authorise the Director and any person authorised by the Director including, where he has reasonable cause to apprehend any serious obstruction in the carrying out of his functions, a police officer, at any time within 28 days of the date of the grant –

- (a) to enter the dwelling, and
- (b) to exercise in respect of the dwelling (and any substances or articles or other things found in or on the dwelling), all such powers as he, and any person authorised by him, may exercise in respect of any other premises under this Part,

for the purposes indicated in section 35(2).

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(3) The Bailiff shall not issue a warrant under subsection (1) unless he is satisfied –

(a) that the Director has given 7 days' notice in writing to the occupier of the dwelling in question demanding access to the dwelling, and

(b) that either –

(i) access was demanded at a reasonable hour and was unreasonably refused, or

(ii) although entry to the dwelling was granted, the occupier unreasonably refused to comply with a request by the Director or any person authorised by the Director to permit the Director or person to do any of the things referred to in subsection (2), and

(c) that the occupier has, after the refusal, been notified by the Director of the application for the warrant and has had an opportunity of being heard by the Bailiff on the question whether or not it should be issued.

(4) Subsection (3) shall not apply if the Bailiff is satisfied that the case is one of urgency or that compliance with those provisions would defeat the object of the entry.

(5) A person executing a warrant issued under this section may use such reasonable force as may be necessary.

(6) A warrant issued under this section shall be executed at a reasonable hour unless it appears to the person executing it that there are grounds for suspecting that any material evidence of environmental pollution would not be found if it were so executed.

(7) If the person who occupies the dwelling in respect of which a warrant is issued under this section is present when the warrant is executed, he shall be shown the warrant and supplied with a copy of it; and if that person is not present a copy of the warrant shall be left in a prominent place on the dwelling.

(8) A person seizing anything in pursuance of a warrant under this section shall give a receipt for it if asked to do so.

**Statutory powers to make requirements.**

37. (1) Where the Director reasonably believes that any premises or activity is a source, or potential source, of environmental pollution or nuisance he may require –

- (a) the occupier of those premises, or
- (b) any person reasonably believed by the Director to be carrying on, or to have carried on, that activity,

to comply with any of the requirements indicated in subsection (2).

(2) The requirements for the purpose of subsection (1) are –

- (a) to make available for examination by the Director any –
  - (i) plant or equipment,

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- (ii) substance or article, or
- (iii) waste or by-product,  
  
used, stored or produced at those premises or in connection with that activity,
- (b) to furnish the Director with such information, including records and other documents, relating to the premises or to that activity as the Director may reasonably require, and
- (c) to answer such questions relating to those premises or to that activity as he may reasonably ask.

(3) Anything provided or made available to the Director in compliance with a requirement under this section may be detained by the Director for so long as is necessary for all or any of the following purposes, namely –

- (a) to take it for further examination (including dismantling it or subjecting it to any process or test (but not so as to damage or destroy it unless this is necessary)),
- (b) to ensure that it is not tampered with before his examination of it is completed, or
- (c) to ensure that it is available for use –
  - (i) as evidence in any proceedings for an offence under the Law, or

- (ii) in connection with the enforcement of the requirements of a compliance notice.

**Statutory powers to take samples and do other necessary things.**

**38.** Where the Director reasonably believes that any premises or activity is a source, or potential source, of environmental pollution or nuisance he may, as regards any premises which he has power to enter under section 35 –

- (a) direct that those premises or any part of them, or anything in them, 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 this Part,
- (b) take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under this Part,
- (c) take samples of any article or substance found in or on any premises, and of the air, water or land in, on, or in the vicinity of, the premises,
- (d) in the case of any article or substance found in or on any premises, being an article or substance which appears to him to have caused or to be likely to cause environmental pollution, to cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless this is necessary), and
- (e) in the case of any such article or substance as is

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mentioned in paragraph (d), to take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely –

- (i) to examine it and do to it anything which he has power to do under that paragraph,
- (ii) to ensure that it is not tampered with before his examination of it is completed,
- (iii) to ensure that it is available for use –
  - (A) as evidence in any proceedings for an offence under the Law, or
  - (B) in connection with the enforcement of the requirements of a compliance notice.

**Results of examination etc. to be furnished by Director.**

**39.** (1) Where, under this Part, the Director takes, is furnished with or obtains any –

- (a) plant or equipment,
- (b) substance or article, or
- (c) waste or by-product,

he shall, so far as is reasonably practicable, comply with the requirements of subsection (2).

- (2) The requirements are –
- (a) that the results of any examination of anything referred to in subsection (1) are made available to any person who, in the opinion of the Director, has a material interest in those results,
  - (b) that duplicates of any –
    - (i) substance or article, or
    - (ii) waste or by-product,are provided to any person who, in the opinion of the Director, has a material interest in those duplicates, and
  - (c) that except in the case of waste, or any substance or article required to establish the commission of any offence under the Law, anything referred to in subsection (1) is returned to the person who, in the opinion of the Director, appears to be the rightful owner of the thing.

**Obtaining information by written notice.**

40. For the purpose of carrying out any function of his under this Ordinance or Parts II, III, V or IX of the Law, the Director may serve a written notice on any person requiring that person to furnish such information specified in the notice as the Director reasonably considers he needs –

- (a) in such form, and

- (b) within such period following service of the notice,

as is specified in the notice.

**Compliance notices.**

**41.** (1) If the Director is of the opinion that –

- (a) a licensee –

- (i) is contravening, or

- (ii) is likely to contravene,

any term or condition to which his licence is subject under the Law, or

- (b) as respects the carrying on of a prescribed operation for which a valid licence has been issued, that –

- (i) to continue to carry it on, or

- (ii) to continue to carry it on in a particular way,

gives rise to an imminent risk of environmental pollution or nuisance,

- (c) a person carrying on an operation which is exempt under section 3 from the requirement to hold a licence –

- (i) is contravening, or

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(ii) is likely to contravene,

any term or condition to which such exemption is subject under the Law, or

(d) as respects the carrying on of a prescribed operation by a person without holding a valid licence in contravention of section 13(4) of the Law, that the carrying on of that operation without a licence gives rise to a risk of environmental pollution or nuisance,

he may serve a compliance notice on the licensee or the person carrying on the operation.

(2) A compliance notice shall –

(a) as respects a notice served on a licensee, or a person carrying on an operation, as the case may be, under subsection (1)(a) or (c) –

(i) state that the Director is of the opinion that a contravention of a term or condition of a licence or an exemption, as the case may be –

(A) is taking place, or

(B) is about to take place,

(ii) specify the matters –

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- (A) constituting the contravention, or
    - (B) making it likely that a contravention will take place,
  - (iii) specify the steps that must be taken –
    - (A) to remedy the contravention, or
    - (B) to remedy the matters making it likely that the contravention will arise,
  - (iv) identify by name or description the person required to take the steps specified under subparagraph (iii), and
  - (v) specify the period within which the steps specified under subparagraph (iii) must be taken, and
- (b) as respects a notice served on a person carrying on the operation under subsection (1)(b) –
- (i) state that the Director is of the opinion that –
    - (A) to continue to carry on a prescribed operation, or
    - (B) to continue to carry on a prescribed operation in a particular way,

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- gives rise to an imminent risk of environmental pollution or nuisance,
- (ii) specify the nature of the risk involved,
  - (iii) specify the steps that must be taken to eliminate or remove the risk involved,
  - (iv) identify by name or description the person required to take the steps specified under subparagraph (iii),
  - (v) specify the period within which the steps specified under subparagraph (iii) must be taken, and
  - (vi) direct that the licence relating to the prescribed operation is, insofar as it authorises the activity giving rise to the risk involved, suspended until the steps specified under subparagraph (iii) have been taken to the satisfaction of the Director, and
- (c) as respects a notice served on a person carrying on the operation under subsection (1)(d) –
- (i) state that the Director is of the opinion that the carrying on of the prescribed operation without a licence gives rise to a risk of environmental pollution or nuisance,

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- (ii) specify the nature of the risk involved,
  - (iii) specify the steps that must be taken to eliminate or remove the risk involved,
  - (iv) identify by name or description the person required to take the steps specified under subparagraph (iii),
  - (v) specify the period within which the steps specified under subparagraph (iii) must be taken,
  - (vi) specify the provision of this Ordinance and the Law under which the notice is served, and
  - (vii) specify that a person who causes or permits the occurrence or the risk of environmental pollution, by contravening section 13(4) of the Law, is guilty of an offence under section 65(2) of the Law, and
- (d) as respects a notice served on any person under subsection (1) –
- (i) specify that the notice is a compliance notice within the meaning of section 62(1) of the Law and that –
    - (A) if a requirement of it is not adequately complied with, within the relevant

period specified in the notice, the Director may take action to secure compliance under section 63 of the Law, and

(B) a person who contravenes it is guilty of an offence under section 66(1) of the Law, and

(ii) inform the person served with the notice of his right of appeal under section 25 of the Law.

(3) The institution of criminal proceedings under sections 65 to 68 of the Law does not –

(a) prevent the exercise by the Director of the power to issue a compliance notice, or

(b) prejudice the continuation of any proceeding or the taking of any action under section 62 or 63 of the Law.

## PART VII

### INTERPRETATION AND GENERAL PROVISIONS

#### **Interpretation.**

42. (1) In this Ordinance, unless the context requires otherwise –

**"air"**: see section 2(4)(a) of the Law,

**"the Bailiff"** includes the Deputy Bailiff and any person appointed as

Juge-Délégué, Lieutenant Bailiff or as a Judge of the Royal Court<sup>g</sup>,

**"business day"** has the meaning given by section 1(1) of the Bills of Exchange (Guernsey) Law, 1958<sup>h</sup>,

**"commercial waste"** means waste arising from any activity carried on by way of business, and includes agricultural and horticultural waste other than such waste arising from use of the curtilage of a dwelling house for purposes connected with the use of that dwelling house,

**"compliance notice"**: see section 62(1) of the Law and section 41,

**"the Director"** means the person appointed as Director of Environmental Health and Pollution Regulation under section 4 of the Law,

**"dwelling house"** means a building or part of a building used as a permanent residence for members of one household, and includes the curtilage of such a building, but does not include a hotel, hospital or other place where persons may temporarily live,

**"enactment"** includes an instrument,

**"environmental pollution"**: see section 2(2) of the Law,

**"Environment Department"** means the States of Guernsey Environment Department,

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<sup>g</sup> The office of Judge of the Royal Court was established by Order in Council No. XXII of 2008.

<sup>h</sup> Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; Vol. XXXIV, p. 504; Vol. XXXV(1), p. 367 and Order in Council No. IX of 2001.

**"Guernsey"** includes the Islands of Guernsey, Herm and Jethou, all other islands, islets and rocks around the coasts of those Islands, whether or not attached at low water, and all of the territorial waters adjacent thereto,

**"household waste"** means waste arising from the normal use of a dwelling house as such and does not include commercial waste arising thereon,

**"instrument"** means any order (including any order of the Royal Court), regulation, rules or other subsidiary legislative instrument,

**"land"**: see section 2(4)(c) of the Law,

**"the Law"** means the Environmental Pollution (Guernsey) Law, 2004,

**"Law Officer of the Crown"** means Her Majesty's Procureur or Her Majesty's Comptroller,

**"licence"** means a licence to carry on a prescribed operation granted under section 15 of the Law,

**"licensed waste site"**: see section 38(1)(a) of the Law,

**"licensee"** means a person who holds a licence,

**"medicinal product"** has the meaning in section 133 of the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008<sup>i</sup>,

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<sup>i</sup> Order in Council No. V of 2009 as amended by the Medicines (Human and

**"notify"** means notify in writing,

**"nuisance"** has the meaning given by section 1(4) of the Loi relative à la Santé Publique<sup>j</sup>,

**"owner"** in relation to premises, includes an usufructier,

**"Panel"**: see section 7(a),

**"person"** includes any body or authority,

**"plant"** includes any type of machinery, implement or apparatus, whether affixed to or at a specific site or capable of being operated at more than one site,

**"police officer"** means a member of the salaried police force of the Island of Guernsey and, within the limits of his jurisdiction, a member of the special constabulary of the Island of Guernsey,

**"premises"**, except in Part V, includes buildings, structures and land in the open air,

**"prescribed"** means prescribed by regulations made by the Director<sup>k</sup>,

**"a prescribed operation"**: see section 13(1) of the Law and section 1,

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Veterinary) Law, 2008 (Commencement and Amendment) Ordinance, 2009.

<sup>j</sup> Ordres en Conseil Vol. XI p. 386 and Vol. XXXIX p. 64.

<sup>k</sup> See also section 1 of this Ordinance.

**"prescription only medicine"** means a medicinal product of a description or falling within a class specified in section 2 of the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009<sup>1</sup>,

**"President of the Panel"** means the person designated as President of the Environmental and Public Health Appeals Panel under section 8,

**"relevant fee"** means any fee or charge payable under regulations made by the States Treasury and Resources Department under section 8 of the Law,

**"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,

**"specially controlled waste"**: see section 37(1) of the Law and section 26,

**"specified"** means specified in writing by the Director,

**"States' Direction"** means a direction given by the States under section 5(1)(b) of the Law,

**"States' Guidance"** means guidance given by the States under section 5(1)(a) of the Law,

**"the Tribunal"**: see section 7(b),

**"vice-President"** means the person designated as vice-President of the

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<sup>1</sup> Ordinance No. XXV of 2009.

Environmental and Public Health Appeals Panel under section 8,

**"waste"** has the meaning in the Law except that it does not include –

- (a) radioactive waste, or
- (b) any substance which is explosive within the meaning of the Explosives (Guernsey) Law, 1905<sup>m</sup>,

**"water"**: see section 2(4)(b) of the Law,

and other words or expressions which are defined in the Environmental Pollution (Guernsey) Law, 2004 have the same meanings as in that Law.

(2) Unless the context requires otherwise, a reference in this Ordinance to an enactment includes a reference to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment.

(3) The Interpretation (Guernsey) Law, 1948<sup>n</sup> applies to the interpretation of this Ordinance throughout the territory in which it has effect.

**Transitional Provision.**

43. (1) Subject to subsection (2), where a prescribed operation is being carried on immediately before the commencement of this Ordinance, such operation shall, on or after the commencement of this Ordinance, be deemed to be one in respect of which a licence has been issued under Part III of the Law to the person carrying on the operation provided that an application for a licence to carry on such operation is made to the Director –

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<sup>m</sup> Ordres en Conseil Vol. III, p. 414 and Vol. XXXIV p. 586.

<sup>n</sup> Ordres en Conseil Vol. XIII, p. 355.

*Consolidated text*

- (a) in accordance with sections 4 and 5 of this Ordinance, and
- (b) within two months starting from the date of the commencement of this Ordinance.

(2) The person carrying on the operation in question shall be treated as a licensee for the operation in question under subsection (1) until –

- (a) the application to carry on the prescribed operation in question is granted by the Director (whether or not subject to conditions), or

- (b) if such an application is refused –

- (i) the expiry of the period for appealing against the refusal under section 25(5) of the Law, or

- [(iii)] where an appeal is duly instituted against the refusal, the date the appeal is finally determined or withdrawn; and an appeal is finally determined when the appeal and any further appeal is finally determined.

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**NOTE**

*The figures in square brackets shown, incorrectly, in the printed version of this section as "(iii)" should read "(ii)".*

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**Amendment of the Refuse Disposal Ordinance.**

44. (1) The Refuse Disposal Ordinance, 1959<sup>0</sup> is amended as follows.

(2) Sections 4 (dumping of refuse) and 5 (dumping of refuse in quarries) are repealed.

(3) In section 7(1) (power to order destruction, removal, covering or screening of refuse dumps), after the words "on any land" insert ", other than a licensed waste site within the meaning of the Environmental Pollution (Guernsey) Law, 2004,".

(4) In section 12 (States refuse tips) –

(a) in subsection (1), at the beginning insert "Subject to subsection (4)," , and

(b) at the end add the following subsection –

" (4) This section shall not apply in relation to a place which is a licensed waste site within the meaning of the Environmental Pollution (Guernsey) Law, 2004."

**Extent.**

45. This Ordinance has effect in Guernsey.

**Citation.**

46. This Ordinance may be cited as the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010.

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<sup>0</sup> Recueils d'Ordonnances Tome XII, p. 97 as amended by Tome XIII, p. 290, Tome XXV p. 75 and 259, Tome XXVI p. 430.

**Commencement.**

47. This Ordinance shall come into force on the 1<sup>st</sup> June, 2010.