



Jersey

PESTICIDES (JERSEY) LAW 1991

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PESTICIDES (JERSEY) LAW 1991

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Jersey

PESTICIDES (JERSEY) LAW 1991¹

A **LAW** to provide for the regulation of pesticides and substances, preparations and organisms prepared or used for the control of pests or for protection against pests

Commencement [[see endnotes](#)]

PART 1

PRELIMINARY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“approval” means the approval of a pesticide pursuant to an Order of the Minister;

“creature” means any living organism other than a human being or a plant;

“crops” includes any form of vegetable produce;

“food” includes drink and articles and substances used as ingredients in the preparation of food or drink;

“inspector” has the meaning assigned to it by Article 8;

“Minister” means the Minister for Planning and Environment;

“pest” means –

(a) any organism harmful to plants or to wood or other plant products;

(b) any undesired plant;

(c) any harmful creature;

“pesticide” means any substance, preparation or organism prepared or used for destroying any pest;

“pesticide residue” means any substance resulting from the use of a pesticide including, without prejudice to the generality of this definition, any such derivative as may be prescribed in relation to a particular pesticide;

“plants” means any form of vegetable matter while it is growing and after it has been harvested, gathered, felled or picked, and in particular, but without prejudice to the generality of this definition, includes –

- (a) agricultural crops;
- (b) trees and bushes grown for purposes other than those of agriculture;
- (c) wild plants; and
- (d) fungi;

“premises” includes any place and, in particular, includes –

- (a) any vehicle, vessel, aircraft or hovercraft;
- (b) any offshore installation; and
- (c) any tent or movable structure;

“prescribed” means prescribed by an Order made by the Minister.

- (2) In this Law, the expression the “specified prohibitions”, in relation to pesticides, means prohibitions of any of the following –
 - (a) importation;
 - (b) sale, offer or exposure for sale or possession for the purpose of sale;
 - (c) supply or offer to supply or possession for the purpose of supply;
 - (d) storage;
 - (e) use;
 - (f) advertisement.

PART 2

GENERAL PURPOSES AND APPLICATION

2 General purposes of the Law

The general purposes of this Law are –

- (a) to protect human beings, creatures and plants from the harmful effects of pesticides;
- (b) to safeguard the environment against the harmful effects of pesticides;
- (c) to secure safe, efficient and humane methods of controlling pests; and
- (d) to make information about pesticides available to the public,

and references in this Law to the general purposes of this Law are references to the purposes mentioned in this Article.

3 Application

This Law applies to –

- (a) pesticides; and
- (b) any substance, preparation or organism prepared or used for any of the following purposes –
 - (i) protecting plants or wood or other plant products from harmful organisms,
 - (ii) regulating the growth of plants,
 - (iii) giving protection against harmful creatures,
 - (iv) rendering such creatures harmless,
 - (v) controlling organisms with harmful or unwanted effects on water systems, buildings, or other structures or on manufactured products,
 - (vi) protecting animals against ectoparasites,as if it were a pesticide.

PART 3**CONTROLS****4 Control of pesticides**

- (1) The Minister may by Order –
 - (a) impose the specified prohibitions in relation to pesticides of a description specified in the Order;
 - (b) provide for the approval of pesticides of any description;
 - (c) provide for the imposition of conditions on an approval when or after it is given;
 - (d) provide for –
 - (i) the review, revocation or suspension of an approval,
 - (ii) the amendment of a condition imposed on an approval;
 - (e) direct that if there has been a breach, in relation to any pesticide, of any of the specified prohibitions or of any condition of approval of the pesticide, the Minister shall have power –
 - (i) to seize or dispose of it or to require that some other person shall dispose of it,
 - (ii) to seize or dispose of anything treated with it or to require that some other person shall dispose of any such thing,
 - (iii) to require some other person to take such remedial action as appears to the Minister to be necessary as a result of the contravention;
 - (f) provide that if any pesticide has been imported into Jersey in contravention of any of the specified prohibitions or of any

- condition of approval of the pesticide, the Minister may require that it shall be removed out of Jersey;
- (g) provide for the availability to the public, subject to any condition that the Minister may consider appropriate, and to payment of such fee for furnishing copies as the Minister considers to be reasonable, of information supplied for the purposes of Article 6;
 - (h) specify the amount (if any) of pesticide or pesticide residue which may be left in or on any crop, food or feeding stuff;
 - (i) direct that if there is more pesticide or pesticide residue in or on any crop, food or feeding stuff than the amount specified by virtue of sub-paragraph (h), the Minister shall have power –
 - (i) to seize or dispose of the crop, food or feeding stuff in question or to require that some other person shall dispose of it,
 - (ii) to direct some other person to take such remedial action as appears to the Minister to be necessary as a result of the contravention;
 - (j) provide for the recovery by the Minister of any expenses incurred by the Minister for the purpose of giving effect to the provisions of sub-paragraph (e) or (i).
- (2) In making provision under paragraph (1)(g) for the availability of information to the public, the Minister shall have regard to the interests of persons supplying information to which that provision would relate.
- (3) If it appears to the Minister that an Order that he or she contemplates making under this Article is likely to affect the health or safety of persons at work, the Minister shall consult the Minister administering the Health and Safety at Work (Jersey) Law 1989² about the Order.
- (4) A person who without reasonable excuse, contravenes or causes or permits any other person to contravene –
- (a) any provision of, or requirement imposed by, an Order made under this Article; or
 - (b) any condition of approval of a pesticide,
- shall be guilty of an offence and be liable to a fine.

5 Application for approval

- (1) An application for approval of a pesticide shall –
- (a) be in the form required from time to time by the Minister;
 - (b) specify the purpose of the pesticide;
 - (c) indicate the amount (if any) and composition of any residue or residues which will be left in or on a treated crop and a method of analysis by which any such residue or residues may be determined;
 - (d) contain, or be accompanied by, such other particulars as the Minister may require; and
 - (e) be accompanied by such fee as may be prescribed.

- (2) The Minister may, in addition to any fee prescribed under paragraph (1)(e), require an applicant for approval to meet the expenses of carrying out any examination or test which is necessary to enable the Minister to decide whether to grant an approval.

6 Provision of information to the Minister

The Minister may require the provision of such information by importers, exporters, manufacturers, distributors or users of a pesticide as the Minister considers necessary –

- (a) for the purpose of controlling pesticides in Jersey;
- (b) to enable the States to determine whether action requires to be taken to fulfil an international obligation of any description.

7 Codes of practice

- (1) The Minister may, after consultation with such persons or bodies as appear to be representative of the interests concerned –
 - (a) prepare and issue codes of practice for the purpose of providing practical guidance in respect of any provision of this Law or any Order made under this Law; and
 - (b) revise any such code by revoking, varying, amending or adding to the provisions of the code.
- (2) The Minister shall cause any code prepared under this Article to be printed and distributed, and may make such arrangements as he or she thinks fit for its distribution, including causing copies to be put on sale to the public at such price as he or she considers to be reasonable.
- (3) A failure on the part of any person to follow any guidance contained in a code issued under this Article shall not of itself render that person liable to proceedings of any kind.
- (4) In all criminal proceedings any such code shall be admissible in evidence, and if any provision of such a code appears to the court conducting the proceedings to be relevant to any question arising in the proceedings, it shall be taken into account in determining that question.

PART 4

ENFORCEMENT

8 Inspectors

- (1) Any person generally or specially authorized by the Minister in that behalf (in this Law referred to as an “inspector”) may for the purpose of enforcing the provisions of this Law and any Orders made under this Law, subject to production by the inspector, if so required, of evidence of his or her authority, exercise the powers set out in this Part.

- (2) An inspector shall also, if so requested, state –
 - (a) his or her name;
 - (b) the function that he or she proposes to perform;
 - (c) his or her grounds for proposing to perform it.

9 Assistants for inspectors

- (1) An inspector may take with him or her, to assist in performing his or her functions –
 - (a) any other person; and
 - (b) any equipment or materials.
- (2) A person whom an inspector takes with him or her to assist may perform any of the inspector's functions, but only under the inspector's supervision.

10 Time of performance of functions

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

11 Powers of investigation

- (1) An inspector may enter any land if he or she has reasonable grounds to believe –
 - (a) that any pesticide is being or has been applied to or stored on it; and
 - (b) that it is necessary for him or her to enter for any of the general purposes of this Law.
- (2) An inspector may enter any premises if he or she has reasonable grounds to believe –
 - (a) that the premises are being utilized for the storage, transportation or application of any pesticide; and
 - (b) that it is necessary for the inspector to do so for any of the general purposes of this Law.
- (3) For any of those purposes an inspector may require any person to give him or her information as to the formulation, effects or use of any substance.
- (4) If an inspector is of the opinion that a person –
 - (a) is committing an offence under Article 4(4); or
 - (b) has committed such an offence in circumstances that make it likely that the offence may be repeated,

he or she may deliver to that person a notice stating that he or she is of that opinion, giving particulars of the reasons why he or she is of that opinion and directing –

- (i) that any land or any premises on or in which it appears to him or her that the offence was or is being committed or anything which is on or in the land or premises, shall be left undisturbed (whether generally or in particular respects) for so long as it appears to him or her to be reasonably necessary, or
 - (ii) that any remedial or preventive measures shall be taken.
- (5) If an inspector is of the opinion that any activities as carried on or about to be carried on by or under the control of any person, involve or, as the case may be, will involve the risk of a commission of an offence under Article 4(4), he or she may deliver to that person a notice –
- (a) stating that he or she is of that opinion;
 - (b) specifying the matters which in his or her opinion give or, as the case may be, will give rise to the said risk;
 - (c) directing that the activities to which the notice relates shall not be carried on by or under the control of the person to whom the notice is delivered unless the matters specified in the notice under sub-paragraph (b) have been remedied.

12 Containers, etc.

For the purpose mentioned in Article 8(1), an inspector may –

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

13 Appeals

- (1) A person may appeal in accordance with the provisions of this Article against a notice delivered to him or her by an inspector under Article 11(4) or (5) on the ground that the notice was unreasonable having regard to all the circumstances of the case.
- (2) An appeal under this Article shall be –
 - (a) made in writing to the Minister not later than 7 days after the delivery of the notice against which the appeal is brought;
 - (b) determined by a Jurat nominated by the Bailiff.
- (3) Not later than 2 days after receiving an appeal under this Article the Minister shall forward a copy of the appeal, and of the notice against which the appeal is brought, to the Judicial Greffier.

- (4) The Jurat shall sit in public to hear the appeal but shall otherwise determine the Jurat's own procedure.
- (5) On an appeal under this Article the Jurat may either cancel or affirm the notice and, if the Jurat affirms it, may do so either in its original form or with such modification as the Jurat in the circumstances thinks fit.

PART 5

PROVISIONS AS TO OFFENCES

14 Offences

- (1) Any person who intentionally obstructs an inspector in the performance of any of his or her functions under this Law shall be guilty of an offence and be liable to a fine not exceeding £2,000.
- (2) Any person who –
 - (a) fails without reasonable excuse to comply with a requirement made, or direction given, by an inspector in the performance of his or her functions under this Law; or
 - (b) in purporting to give information required pursuant to any of the provisions of this Law –
 - (i) makes a statement which he or she knows to be false in a material particular,
 - (ii) recklessly makes a statement which is false in a material particular,
 - (iii) intentionally fails to disclose a material particular,shall be guilty of an offence and be liable to a fine.

15 Offence by body corporate

- (1) Where an offence under this Law or any Order made under this Law which has been committed by a body corporate is proved to have been committed with the consent or connivance, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he or she as well as the body corporate shall be guilty of the offence and be liable to be proceeded against accordingly.
- (2) Where the affairs of a body corporate are managed by its members paragraph (1) shall apply in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.

16 General defence of due diligence

- (1) In any proceedings for an offence under this Law or any Order made under this Law it is a defence for the person charged to prove that he or

she took all reasonable precautions and exercised all due diligence to avoid the commission of the offence.

- (2) Without prejudice to the generality of paragraph (1), a person is to be taken to have established the defence provided by that paragraph if he or she proves –
- (a) that he or she acted under instructions given to him or her by his or her employer; or
 - (b) that he or she acted in reliance of information supplied by another person without any reason to suppose that the information was false or misleading,

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

- (3) Where paragraph (2) applies, the person to whose act or default the offence was attributable shall be guilty of the offence and that person may be charged with and convicted of the offence by virtue of this paragraph.

PART 6

MISCELLANEOUS

17 Orders

- (1) The Minister may by Order make provision for giving effect to the general purposes of this Law and, in particular, but without prejudice to the generality of the foregoing, for prescribing any matter which may be prescribed by this Law.
- (2) If any person acts in contravention of, or fails to comply with, any Order made under this Law, contravention or failure to comply with which is not made an offence under any other provision of this Law, he or she shall for each offence be liable to such maximum penalty not exceeding a fine of £500 as may be prescribed by the Order.
- (3) The Subordinate Legislation (Jersey) Law 1960³ shall apply to Orders made under this Law.

18 Citation

This Law may be cited as the Pesticides (Jersey) Law 1991.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement
Pesticides (Jersey) Law 1991	L.13/1991	1 October 1991 (R&O.8273)
Transfer of Functions (Environment and Public Services Committee (No. 2) (Jersey) Act 2004	R&O.133-2004	23 November 2004
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	R&O.132/2005	9 December 2005

Table of Renumbered Provisions

Original	Current
PART I	PART 1
1(3), (4), (5)	spent, omitted from this revised edition
PART II	PART 2
PART III	PART 3
4(1)(j)	4(1)(i)
(k)	(j)
PART IV	PART 4
PART V	PART 5
PART VI	PART 6
18	spent, omitted from this revised edition
19	18

Table of Endnote References

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- ¹ *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government*
- ² *chapter 05.300*
- ³ *chapter 15.720*