

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Control of Birds Ordinance, 1985 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XXIII, p. 258; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the States Committee for Agriculture (Transfer of Functions) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 17); the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001 (No. XX of 2001, Recueil d'Ordonnances Tome XXVIII, p. 433); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005 (No. VII of 2006, Recueil d'Ordonnances Tome XXIX, p. 260); the Animal Welfare (Guernsey) Ordinance, 2012 (No. III of 2012); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008 (No. XX of 2008).

ORDINANCE OF THE STATES OF DELIBERATION

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The Control of Birds Ordinance, 1985

ARRANGEMENT OF SECTIONS

1. Application of Ordinance.
- 1A. Controlling numbers of birds.
2. Directions for controlling numbers of birds.
3. Publication of notice of direction.
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9. Extent.

(Made on 29th May, 1985.)

The Control of Birds Ordinance, 1985

THE STATES, in pursuance of their Resolution of the 15th day of March, 1985, hereby order: –

Application of Ordinance.

1. This Ordinance applies to any case in which, in the opinion of [the Committee], it is necessary or expedient –

(a) ...

(b) ...

(c) ...

[(d) to prevent the spread of disease to which birds are subject and the occurrence of any resultant threat to public health, public hygiene or public safety,]

[to achieve the control set out in section 1A].

NOTES

In section 1,

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

paragraph (a), paragraph (b) and paragraph (c) were repealed by the Animal Welfare (Guernsey) Ordinance, 2012, section 83, Schedule 4, paragraph 8(2)(a), with effect from 1st July, 2014, subject to the transitional provisions and savings in section 82, Schedule 3, paragraph 4 of the 2012 Ordinance;¹

paragraph (d) (which was originally inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(2)(b), with effect from 17th October, 2005) was substituted by the Animal Welfare (Guernsey) Ordinance, 2012, section 83, Schedule 4,

paragraph 8, with effect from 1st July, 2014;

the words in the third pair of square brackets were substituted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(2)(c), with effect from 17th October, 2005.

In accordance with the provisions of the Animal Welfare (Enabling Provisions) (Guernsey) Law, 2008, section 3, Schedule, paragraph 9, with effect from 28th October, 2008, this Ordinance is one of those enactments which may be repealed, etc by ordinance under the 2008 Law.

[Controlling numbers of birds.]

1A. The control referred to in section 1 is to control the numbers congregating in –

- (a) any place of any birds which reasonably appear to be wild birds or of any species or class of such birds, or
- (b) any public place of any birds or of any species or class of birds.]

NOTE

Section 1A was inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(3), with effect from 17th October, 2005.

Directions for controlling numbers of birds.

2. (1) In any case to which this Ordinance applies [the Committee] may, subject to the provisions of this section and of section 3, direct the taking of measures by humane methods to control, by destruction or otherwise, the numbers of birds in a specified [place].

- (2) A direction under this section may –
 - (a) be given in respect of all birds found to be present at the [place] in relation to which it is given or in respect of any species or any class of birds so present,

Consolidated text

- (b) direct the destruction of birds, eggs of birds and nests of birds at the place in relation to which it is given, or their removal from that place and subsequent destruction or other disposal elsewhere,
 - (c) provide for the disposal of carcasses, eggs and nests destroyed pursuant to the direction,
 - (d) make such ancillary provision as [the Committee] considers necessary or expedient.
- (3) A direction given under this section shall specify –
- (a) the [place] in relation to which the direction is given,
 - (b) the first date and time at which the direction is to be executed and the last date and time until which the direction may continue to be executed,
 - (c) either numerically or by reference to a proportion of the birds found to be present, the maximum number of birds to be destroyed pursuant to the direction,
 - (d) the person, whether by name or by reference to any office held by him, authorised to execute the direction,
 - (e) the method or methods which may be used for the destruction of birds pursuant to the direction,
 - (f) whether, and if so to what extent, the eggs and the nests of birds are to be destroyed pursuant to the direction.

NOTES

In section 2,

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

the word "place" in square brackets, wherever occurring, was substituted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(4), with effect from 17th October, 2005.

Publication of notice of direction.

3. [Subject to section 3A,] if [the Committee] gives a direction under section 2, a notice shall be published in La Gazette Officielle, on at least two occasions between the fourteenth day and the seventh day immediately preceding the first date on which the direction is to be executed, –

- (a) setting out the matters specified in the direction pursuant to section 2(3)(a), (b) and (c), and
- (b) warning that the owner of a bird who desires to avoid its destruction pursuant to the direction should remove it from the place specified therein before the first date and time when the direction is to be executed, and
- (c) if the place specified in the direction is not a place to which the public normally have access, stating the arrangements by which owners of birds may be afforded access to that place for the purpose of removing birds owned by them.

NOTES

In section 3,

the words in the first and third pairs of square brackets were inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(5), with effect from 17th October, 2005;

the words in the second pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance,

2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

[Special provisions in the event of a serious threat to public or bird health or to public hygiene or safety.]

3A. (1) Where a direction is issued under section 2 in the circumstances set out in section 1(d) and [the Committee] considers that there is a serious threat to public or bird health or a direction is issued in any other circumstances where [the Committee] considers there is such a threat or a serious threat to public hygiene or safety then –

- (a) [the Committee] must as soon as reasonably possible after the issue of that direction put a notice in La Gazette Officielle which must –
 - (i) specify the direction and the disease or other circumstances in question and the reasons why it considers there to be a relevant serious threat, and
 - (ii) set out the special provisions applicable under this section,
- (b) [the Committee] may, instead of complying with the provisions of section 3, place a notice in La Gazette Officielle, which may form part of the same notice as that referred to in paragraph (a), as soon as possible after the first date on which the direction was executed setting out –
 - (i) the matters in section 3(a), and
 - (ii) requiring the owner of any bird which has been or is to be destroyed to apply to [the Committee] in writing for compensation, with written proof of such ownership, within 21

days of the date of that notice, and

- (c) where [the Committee] decides to publish a notice in accordance with paragraph (b) –
 - (i) the owner of a bird who complies with the requirements of this section is entitled to compensation from [the Committee] of £25 per bird or its market value immediately before destruction, whichever is less, from which shall be deducted the amount, if any, received or credited to the account of the owner in respect of the value of its carcass, and
 - (ii) the provisions of sections 8(3) to (6) of the Animal Health Ordinance, 1996 shall apply for the purposes of assessing compensation under this section as they apply to compensation to be assessed under that Ordinance except that they shall apply as if the valuation were required to be carried out as soon as reasonably possible after the destruction of the bird.

(2) [The Committee] may from time to time by order increase the maximum amount of compensation set out in subsection (1)(c)(i).]

NOTES

Section 3A was inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(6), with effect from 17th October, 2005.

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

Effect of direction.

4. [Subject to section 4A,] a direction given under section 2 shall, if the [relevant requirements of sections 2(3) to 3A are complied with], be sufficient authority for the person specified pursuant to section 2(3)(d), together with any other person authorised by [the Committee] in that behalf, to carry out the direction in accordance with its terms; and a person shall not in any way be liable for anything done or omitted to be done in the execution or purported execution of any such direction unless the thing is done or omitted to be done in bad faith.

NOTES

In section 4,

the words in the first and second pairs of square brackets were, respectively, inserted and substituted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(7)(a) and section 2(7)(b), with effect from 17th October, 2005;

the words in the third pair of square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

[Right of entry.]

4A. (1) An officer or servant of [the Committee] authorised in writing by it may, subject to the provisions of this section, enter any land at any reasonable time for the purpose of considering whether and in what manner to exercise [the Committee]'s direction making powers under section 2 or in connection with the execution of any such direction.

- (2) A person authorised under subsection (1) –
- (a) must, if so required, produce his written authorisation before entering any land,
 - (b) is not entitled to demand admission as of right to any land which is occupied unless, other than in the case of an emergency, 24 hours written notice has been given to the occupier,

- (c) may, if necessary, be accompanied by a police officer, who may use reasonable force to restrain any person obstructing or threatening to obstruct the officer or servant of [the Committee], and
- (d) may take with him such other persons as may be necessary for carrying out the purposes for which he has entered.]

NOTES

Section 4A was inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(8), with effect from 17th October, 2005.

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

Obstruction.

5. A person who wilfully obstructs or attempts to obstruct a person acting in execution of a direction given under section 2 shall be guilty of an offence and liable, [on conviction, to a fine not exceeding level 4 on the uniform scale].

NOTE

In section 5, the words and figure in square brackets were substituted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, section 2(9), with effect from 17th October, 2005.²

Interpretation.

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

"[the Committee]" means the States [Committee for the Environment & Infrastructure],

["place" shall be construed in sections 2 and 3, in relation to a bird which reasonably appears to be a wild bird, to refer to "any place" and, in

relation to any other bird, to refer to **"any public place"**,]

"public place" means any place to which the public have access and any place to which the public do not normally have access but which is for the time being owned or administered by the States[,

"wild bird" means any bird in a wild or feral state and includes any bird which reasonably appears to have been abandoned].

(2) A reference in this Ordinance to a numbered provision is, unless the context otherwise requires, a reference to the provision which is so numbered in this Ordinance.

NOTES

In section 6,

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

the definitions of the expressions "place" and "wild bird" in subsection (1) were inserted by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, respectively section 2(10)(a) and section 2(10)(b), with effect from 17th October, 2005.

The functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for the Environment & Infrastructure and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(c), Schedule 2, Part 1, paragraph 2, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

Amendment to Ordinance of 1949.

7. ...

NOTE

Section 7 was repealed by the Animal Welfare (Guernsey) Ordinance, 2012,

section 83, Schedule 4, paragraph 8(3), with effect from 1st July, 2014.

Citation.

8. This Ordinance may be cited as the Control of Birds Ordinance, 1985.

NOTE

The Ordinance was made and came into operation on 29th May, 1985.

Extent.

9. This Ordinance applies in the Islands of Guernsey, Herm and Jethou, including the territorial waters adjacent thereto.

¹ Prior to their repeal, first, paragraph (a) and paragraph (b) and, second, paragraph (c) were amended by the Birds and Animal Health (Miscellaneous Provisions) (Amendment) Ordinance, 2005, respectively section 2(2)(a) and section 2(2)(b), with effect from 17th October, 2005.

² These words were previously substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

³ The words "Committee for the Environment & Infrastructure" were previously substituted by the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001, section 3, Schedule 2, paragraph 17, with effect from 21st January, 2002; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 2, with effect from 6th May, 2004

⁴ The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to them from the Agriculture and Countryside Board and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 2, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the States Agriculture and Countryside Board and its President were previously transferred to it and its President from, respectively, the States Agricultural and Milk Marketing Board and its President by the States Agricultural and Milk Marketing Board (Transfer of Functions) Ordinance, 2001, section 1, Schedule 1, paragraph 17, with effect from 21st January, 2002; and the functions, rights and liabilities of the States Agricultural

and Milk Marketing Board and of its President under this Ordinance were previously transferred to it and its President from, respectively, the States Committee for Agriculture and the President thereof by the States Committee for Agriculture (Transfer of Functions) Ordinance, 1987, section 1, Schedule, with effect from 1st March, 1987.