

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The Refuse Disposal Ordinance, 1959 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XII, p. 97; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Parochial Collection of Waste (Guernsey) Law, 2015 (No. XV of 2015); the Refuse Disposal (Amendment) Ordinance, 1963 (Recueil d'Ordonnances Tome XIII, p. 290); the Refuse Disposal (Amendment) Ordinance, 1966 (Recueil d'Ordonnances Tome XIV, p. 328); the Refuse Disposal (Amendment) Ordinance, 1989 (Recueil d'Ordonnances Tome XXV, p. 75); the Refuse Disposal (Amendment) (No. 2) Ordinance, 1989 (Recueil d'Ordonnances Tome XXV, p. 129); the Refuse Disposal (Amendment) Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 259); the Refuse Disposal (Amendment) Ordinance, 1995 (Recueil d'Ordonnances Tome XXVI, p. 430); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010 (No. XVIII of 2010); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); the Offences (Fixed Penalties) (Guernsey) Law, 2009 (No. XV of 2010); the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

ORDINANCE

OF THE STATES OF DELIBERATION

ENTITLED

The Refuse Disposal Ordinance, 1959

ARRANGEMENT OF SECTIONS

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(Made on 11th March, 1959.)

The Refuse Disposal Ordinance, 1959

THE STATES, in pursuance of their Resolution of the twenty-ninth day of May, nineteen hundred and fifty-seven, hereby order: –

Interpretation.

1. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

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

"**[the Board]**" means the States [States' Trading Supervisory Board],

"**the Douzaine**" means the Douzaine of any parish,

"**occupier**" in relation to any land means the person who, not being the owner of that land, is in or is entitled to actual possession of the land or, if there be no such person, the owner of the land; and the expression "occupied" shall be construed accordingly,

"**owner**" in relation to any land means –

- (a) the beneficial owner, if that land is not held in trust, or
- (b) the trustees, if that land is held in trust,

"**public place**" means any place to which the public are entitled or permitted to have access without payment,

["refuse" means any article or substance (whether organic or inorganic) which requires to be disposed of because it is broken, worn out, contaminated, spoiled, or for any other reason no longer wanted.]

NOTES

In section 1,

the words in the first and second pairs of square brackets in the definition of the expression "the 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 4(a), with effect from 1st May, 2016;¹

the words in the first and second pairs of square brackets in the definition of the expression "the Board" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 12 and section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 6th May, 2004;²

the definition of the expression "refuse" was substituted by the Refuse Disposal (Amendment) Ordinance, 1995, section 1(a), with effect from 26th July, 1995.

The functions, rights and liabilities of the Environment 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 4(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.³

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁴

Abatement of litter.

2. (1) If any person throws down, knowingly drops or otherwise deposits in, into or from any public place in the open air, and leaves, any thing whatsoever in such circumstances as to cause, contribute to, or tend to lead to, the defacement by litter of any place in the open air, then, unless that depositing and leaving was authorised by law or was done with the consent of the occupier or other person or authority having the control of the place in or into which that thing was deposited, he shall be guilty of an offence and be liable on conviction to a fine not exceeding [[level 3] on the uniform scale].

(2) For the purposes of this section, any covered place open to the air on at least one side and available for public use shall be treated as being a place in the open air.

NOTES

In section 2,

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

the word and figure in the square brackets within the square brackets were substituted by the Refuse Disposal (Amendment) Ordinance, 1989, section 1(a), with effect from 30th November, 1989.

In accordance with the provisions of the Offences (Fixed Penalties) (Guernsey) Law, 2009, section 1, section 2 and the Schedule, with effect from 1st July, 2012, any liability to conviction of offences against section 2 of this Ordinance may be discharged by payment of a fixed penalty

Wrongful use of litter bins, etc.

3. (1) A person shall not place or leave with intent to abandon any household or trade refuse in a bin, basket or other receptacle provided in any public place by or with the approval of [the Committee], [the Board] or the Douzaine for the deposit therein of litter.

(2) A person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and be liable on conviction to a fine not exceeding [[level 2] on the uniform scale].

NOTES

In section 3,

the words in the first pair of square brackets in subsection (1) 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 words in the second pair of square brackets in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016;

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

the word and figure in the square brackets within the square brackets in subsection (2) were substituted by the Refuse Disposal (Amendment) Ordinance, 1989, section 1(b), with effect from 30th November, 1989.

In accordance with the provisions of the Offences (Fixed Penalties) (Guernsey) Law, 2009, section 1, section 2 and the Schedule, with effect from 1st July, 2012, any liability to conviction of offences against section 3 of this Ordinance may be discharged by payment of a fixed penalty.

Dumping of refuse.

4. ..

NOTE

Section 4 was repealed by the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010, section 44(2), with effect from 1st June, 2010.⁵

Dumping of refuse in quarries.

5. ...

NOTE

Section 5 was repealed by the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010, section 44(2), with effect from 1st June, 2010.⁶

Collection of refuse.

[6. ...]

NOTES

Section 6 (which was previously substituted by the Refuse Disposal (Amendment) Ordinance, 1963, section 1, with effect from 31st July, 1963) was repealed by the Parochial Collection of Waste (Guernsey) Law, 2015, section 23(1), Schedule, paragraph 1(a), with effect from 1st January, 2019.⁷

Power of [Committee] to order destruction, removal, covering or screening of refuse dumps.

7. (1) Where [any refuse] on any land[, other than a licensed waste site within the meaning of the Environmental Pollution (Guernsey) Law, 2004,] is visible from a public place, and [the Committee] is of opinion that [the refuse] is unsightly, [the Committee] may, by order signed by [the President] of [the Committee], require the occupier of that land to destroy, remove, cover or screen [the refuse] within the thirty days next following the day of the making of the order and subject to such conditions if any as may be specified in the order.

(2) The power conferred by subsection (1) of this section to make any order shall be construed as including a power exercisable in the like manner to vary or revoke the order.

(3) [The President] of [the Committee] shall, as soon as may be after the making of an order under the foregoing provisions of this section, serve the order on the occupier of the land to which the order relates.

NOTES

In section 7,

the words in the first, fourth and eighth pairs of square brackets in subsection (1) were substituted by the Refuse Disposal (Amendment) Ordinance, 1995, respectively section 1(b)(i), section 1(b)(ii) and section 1(b)(iii), with effect from 26th July, 1995;

the words in the second pair of square brackets in subsection (1) were inserted by the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010, section 44(3), with effect from 1st June, 2010;

the words, first, "Committee" and "the Committee" and, second, "T/the President" in square brackets, wherever occurring, 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 4(a), with effect from 1st May, 2016.⁸

Service of orders.

8. (1) An order required by subsection (3) of the last preceding section to be served on the occupier of any land may be served –

- (a) on any person by delivering it to him, by leaving it or by sending it in a prepaid registered letter addressed to him at his usual or last known place of abode,
- (b) on any body corporate by leaving it at or by sending it in a prepaid registered letter to its registered office if situated in the Island or if it is not so situated its principal or last known principal place of business in the Island.

(2) Where two or more persons are the occupiers of any land to which an order under section seven of this Ordinance relates, service of that order on one of those persons in accordance with the foregoing provisions of this section shall, for the purposes of this Ordinance, be deemed to be service on all of those persons.

(3) Where the occupier of any land to which an order under section seven of this Ordinance relates is an infant or a person under guardianship, the order shall be served on the guardian of that infant or person, as the case may be, and in any case where there is no guardian [the Committee] may apply to the Royal Court, sitting as an Ordinary Court, for the appointment of a guardian to act as such under and for the purposes of this Ordinance.

NOTES

In section 8, the words in square brackets in subsection (3) 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.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the references in this section to an "infant" shall be construed as a reference to a "minor", that is to say a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Appeals against orders made by [the Committee].

9. The occupier of any land to which an order made under section seven of this Ordinance relates shall have a right of appeal to the Royal Court against the making of such order or any condition specified therein or against both such order and any condition specified therein.

NOTE

In section 9, the words in square brackets in the marginal note thereto 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.

Power of [Committee] where appeal is not entered or is dismissed.

10. If an appeal under the last preceding section is not made during the thirty days next following the day of the serving of the order or if such an appeal, having been made, is dismissed by the Royal Court and the occupier of the land to which the order relates does not comply with the provisions of the order [the Committee] may enter on the land and destroy, remove, cover or screen [the refuse].

NOTES

In section 10,

the words "Committee" and "the Committee", 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 words in the second pair of square brackets were substituted by the Refuse Disposal (Amendment) Ordinance, 1995, section 1(c), with effect from 26th July, 1995.

Cost of destroying, removing, covering or screening [refuse dump].

11. Where in relation to any order made under section seven of this Ordinance monies have been disbursed by [the Committee] for the purpose of meeting the cost of, and incidental to, destroying, removing, covering or screening [any refuse] [the Committee] may at any time thereafter recover from the occupier of the land to which the order relates as a simple contract debt [the amount reasonably so disbursed].

NOTES

In section 11,

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 words in the second and fourth pairs of square brackets were substituted by the Refuse Disposal (Amendment) Ordinance, 1995, respectively section 1(d)(i) and section 1(d)(ii), with effect from 26th July, 1995.⁹

In accordance with the provisions of the Refuse Disposal (Amendment) Ordinance, 1995, with effect from 26th July, 1995, the words in the marginal note to this section shown, incorrectly in the printed version of this section as "refuse dump" should read "refuse".

States' refuse tips.

12. (1) [Subject to subsection (4),] a person shall not enter any place occupied by [the Committee] and for the time being used by [the Committee] as a place where refuse may be deposited by the public –

- (a) except on such days and during such hours as may from time to time be prescribed by [the Committee] for the deposit of refuse at that place, and
- (b) for the purpose of depositing refuse at that place,

unless he is authorised so to do by [the Committee] or by any person acting on behalf of [the Committee].

(2) [The Committee] shall cause a legible notice to be posted and maintained in a conspicuous position at any place to which subsection (1) of this section applies setting out in such manner as [the Committee] shall deem proper –

- (a) the days on which and the hours during which refuse may for the time being be deposited at that place, and
- (b) the penalty which may be incurred by a person who contravenes the provisions of subsection (1) of this section.

(3) A person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and be liable on conviction to a fine not exceeding [level 3 on the uniform scale].

[(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.]

NOTES

In section 12,

subsection (4), and the words in square brackets in subsection (1), were inserted by the Environmental Pollution (Waste Control and Disposal) Ordinance, 2010, respectively section 44(4)(b) and section 44(4)(a), with effect from 1st June, 2010;

the words "T/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 words and figure in square brackets in subsection (3) were substituted by the Refuse Disposal (Amendment) Ordinance, 1991, section 1(b), with effect from 13th March, 1991.¹⁰

Power of entry on land.

13. (1) Any person duly authorised in writing by [the President] of

[the Committee] may at any reasonable time enter on any land for the purpose of survey and examination where it appears to [the President] that the survey or examination is necessary in order to determine whether any powers under this [Law] should be exercised in respect of that land.

(2) Any person authorised under this section to enter on any land shall, if so required, produce evidence of his authority before so entering and shall not demand admittance as of right to any land which is occupied unless twenty-four hours' notice of the intended entry has been given to the occupier.

(3) Any person who wilfully obstructs any person authorised to enter on land in pursuance of this Ordinance in the performance of anything which such person is by this Ordinance authorised to do shall be guilty of an offence and be liable on conviction to a fine not exceeding [level 4 on the uniform scale].

NOTES

In section 13,

the words "the Minister" and "the Committee" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 2, Schedule 1, paragraph 4(a) and section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016;¹¹

the words and figure in square brackets in subsection (3) were substituted by the Refuse Disposal (Amendment) Ordinance, 1991, section 1(c), with effect from 13th March, 1991.¹²

The word in square brackets in subsection (1) shown, incorrectly, in the printed version of this section as "Law" should read "Ordinance".

Accessories and abettors.

14. A person who knowingly and wilfully aids, abets, counsels, procures or commands the commission of an offence punishable under this Ordinance shall be liable to be dealt with, charged, tried and punished as a principal offender.

Repeals.

15. The Ordinances set out in the first column of the Schedule to this Ordinance are hereby repealed to the extent specified in the second column of that Schedule.

Citation and commencement.

16. (1) This Ordinance may be cited as the Refuse Disposal Ordinance, 1959.

(2) This Ordinance shall come into force on the sixteenth day of March, nineteen hundred and fifty-nine.

SCHEDULE

Section [sixteen]

Ordinances repealed

<i>Ordinance</i>	<i>Extent of repeal</i>
<p>The Ordinance entitled "Ordonnance Générale relative aux Routes, Rues et Chemins" of the twentieth day of January, eighteen hundred and forty.</p>	<p>Article fifty-eight.</p>
<p>The Ordinance entitled "Ordonnance Supplémentaire relative aux Routes, Rues et Chemins" of the thirteenth day of April, eighteen hundred and sixty-three.</p>	<p>Article two.</p>
<p>The Ordinance entitled "Ordonnance relative à l'exploitation des carrières à l'usage commun des habitants de la paroisse de Saint Martin" of the twenty-first day of January, eighteen hundred and ninety-five.</p>	<p>Article seven.</p>
<p>The Ordinance entitled "Ordonnance relative aux Carrières Réservées pour l'Usage Commun des Habitants de la Paroisse de la Forêt" of the sixteenth day of January, eighteen hundred and ninety-nine.</p>	<p>In Article five, the words "Il est défendu de déposer aucun déblai provenant des carrières sur aucun terrain dans les alentours appartenant à la paroisse sans la permission des Douzeniers</p>

<p>The Ordinance entitled "Ordonnance relative au Dépôt d'Immondices dans les Carrières" of the sixth day of December, nineteen hundred and twenty-four.</p> <p>The Ordinance entitled "Ordonnance par rapport à la Salubrité Publique" of the thirtieth day of November, nineteen hundred and thirty-five.</p> <p>The Refuse Disposal Ordinance, 1950.</p>	<p>préposés à cet effet par la Douzaine, mais".</p> <p>The whole Ordinance.</p> <p>The whole Ordinance.</p> <p>The whole Ordinance.</p>
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NOTE

The word in square brackets shown, incorrectly, in the printed version of this Schedule as "sixteen" should read "fifteen".

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

² The words "States' Trading Supervisory Board" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 23, with effect from 6th May, 2004.

³ The functions, rights and liabilities of the Environment Department and its

Minister arising under or by virtue of this Ordinance were transferred to and vested in them, respectively, from the Board of Administration and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

4 The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in them, respectively, from the Public Thoroughfares Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 23, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

5 Prior to its repeal, section 4 was amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989; the Refuse Disposal (Amendment) Ordinance, 1989, section 1(c), with effect from 30th November, 1989.

6 Prior to its repeal, section 5 was amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989; the Refuse Disposal (Amendment) Ordinance, 1989, section 1(d), with effect from 30th November, 1989; the Refuse Disposal (Amendment) (No. 2) Ordinance, 1989, section 1, with effect from 14th December, 1989.

7 Prior to its repeal section 6 was amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989; the Refuse Disposal (Amendment) Ordinance, 1989, section 1(e), with effect from 30th November, 1989; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 5, with effect from 1st May, 2016.

8 The words "the President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004.

9 Section 11 was previously amended by the Refuse Disposal (Amendment) Ordinance, 1966, section 1, with effect from 15th December, 1966; and the Refuse Disposal (Amendment) Ordinance, 1991, section 1(a), with effect from 13th March, 1991.

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

11 The words "the President" were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(c), Schedule 2, paragraph 2(c), with effect from 6th May, 2004.

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

1989.