

PROJET DE LOI

ENTITLED

The Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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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* Ordres en Conseil Vol. XXIX, p. 390; as amended by the: Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); Salvage Convention (Bailiwick of Guernsey) Law, 1997 (No. XIV of 1997, Ordres en Conseil Vol. XXXVII, p. 199); Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998 (No. VIII of 1998, Ordres en Conseil Vol. XXXVIII, p. 231); Government of Alderney (Amendment) Law, 2000 (No. I of 2000, Ordres en Conseil Vol. XL, p. 15); Wreck and Salvage (Amendment) Ordinance, 1993 (Recueil d'Ordonnances Tome XXVI, p. 182); Heritage Committee Ordinance, 1994 (Recueil d'Ordonnances Tome XXVI, p. 306); Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the: Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); States Committees (Transfer of Functions) (Alderney) Ordinance, 1997 (Alderney Ordinance No. II of 1997). This Law is prospectively amended by the Merchant Shipping (Bailiwick of Guernsey) Law, 2002 (Wreck Removal Convention) Ordinance, 2019 (No. XIII of 2019).

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THE STATES, in pursuance of their Resolution of the 31st day of October, 1979, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Bailiwick of Guernsey.

PART 1

VESSELS IN DISTRESS

Duties and powers of Receiver if vessel in distress.

1. (1) If a vessel is wrecked at any place in local waters, the Receiver shall proceed to that place as soon as possible and, for the purpose of assisting the vessel or saving its cargo or the life of any person on board, may take such action and give such directions to any person including, subject to subsection (2), the master of the vessel or any other vessel at hand, as he thinks fit.

(2) The Receiver shall not interfere between the master and crew of a vessel in relation to the management of the vessel unless requested to do so by the master.

(3) If without reasonable cause any person does not comply with any direction given to him by the Receiver under subsection (1), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale].

NOTE

In section 1, the words and figure 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.

Power to pass over private land.

2. (1) If a vessel is wrecked in local waters, any person may, if he is authorised to do so by the Receiver and on condition that he does as little damage as possible, for the purpose of assisting the vessel or saving its cargo or the life of any person on board –

- (a) pass and repass, with or without vehicles or equipment, over any private land,
- (b) deposit cargo recovered from the vessel on any private land,

unless in either case there is some public road or land equally convenient.

(2) Any damage sustained by the owner or occupier of the land in consequence of the exercise of the rights given by subsection (1) shall be a charge on the vessel or cargo, as the case may be, or on the proceeds of sale in cases where the Receiver has exercised a power of sale under this Law; and the amount payable may, if not agreed, be determined in the same manner as salvage may be determined under Part 4 in respect of vessels or cargo other than historic wreck.

(3) If without reasonable cause the owner or occupier –

- (a) hinders any person in the exercise of the rights given by subsection (1), or

- (b) prevents any cargo from remaining deposited on the land for a reasonable time, until it can be removed to a safe place,

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale].

NOTE

In section 2, the words and figure 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.

Exercise of powers in Receiver's absence.

3. (1) If the Receiver is absent, [the Committee for the Environment & Infrastructure] may authorise any person to do anything which may be done by the Receiver under this Law.

(2) No person shall by reason of his acting for the Receiver under this section be deprived of any right to salvage to which he would otherwise be entitled.

NOTE

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

Inquiry in respect of vessels in distress.

4. (1) If a vessel is wrecked in local waters, the Receiver may examine on oath (being hereby empowered to administer the oath) any person

belonging to the vessel or any other person who in his opinion may be able to give information relating to the vessel, its cargo or the occasion of the wrecking as to the following matters –

- (a) the name and description of the vessel,
- (b) the name of the master and owner,
- (c) the name of the owner of the cargo,
- (d) the ports from and to which the vessel was bound,
- (e) the occasion of the wrecking,
- (f) the services rendered,
- (g) such other matters relating to the vessel, its cargo or the occasion of the wrecking as the Receiver thinks fit.

(2) The Receiver shall cause the examination to be recorded in writing and shall send a copy of the record to [the Committee for the Environment & Infrastructure] which shall cause it to be exhibited at the Greffe for public inspection and shall otherwise give such publicity to it as it thinks fit.

NOTE

In section 4, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

PART 2
WRECK

Rules to be observed by persons finding wreck.

5. (1) If in local waters any person finds or recovers any wrecked vessel or any cargo or recovers any such vessel or cargo outside those waters and brings it within them, he shall as soon as possible –

(a) if he is the owner of the vessel or cargo, report the matter to the Receiver, informing him of the place in which the vessel or cargo was found or from which it was recovered and in which it is presently to be found, and describing how it may be recognised,

(b) if he is not the owner of the vessel or cargo –

(i) report the matter in the manner mentioned in paragraph (a), and

(ii) if he has recovered the vessel or cargo, deliver it to, or if that is impracticable make it available for inspection by, the Receiver.

(2) If without reasonable cause any person does not comply with subsection (1), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale]; and if the offence is one under subsection (1)(b)(ii), he shall as an alternative to or in addition to the fine be liable to imprisonment for a term not exceeding two years.

(3) Upon receipt of any report under subsection (1)(b), the Receiver shall take charge of the vessel or cargo in respect of which the report was given and may take or permit the taking by any person of such action in relation to the vessel or cargo as he thinks fit.

(4) Subsections (1) and (3) shall not apply to anything of no or of negligible value, whether economic or otherwise.

NOTE

In section 5, the words and figure 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.

Notice of wreck to be given by Receiver.

6. (1) If the Receiver recovers, or takes charge under section 5(3) of, any vessel or cargo the value of which in his opinion exceeds [£5,000] or such other sum as may be specified from time to time by Ordinance of the States of Guernsey, he shall as soon as possible, unless the identity of the owner of the vessel or cargo is known to him, cause to be published in La Gazette Officielle a description of the vessel or cargo, mentioning the place in which it was found or from which it was recovered and in which it is presently to be found, and shall otherwise give such publicity to it as he thinks fit.

(2) Subsection (1) shall not apply if the vessel or cargo is historic wreck.

NOTE

In section 6, the figures and symbol in square brackets in subsection (1) were substituted by the Wreck and Salvage (Amendment) Ordinance, 1993, section 1, with effect from 29th September, 1993.

Claims of owners of wreck.

7. (1) If no person establishes to the Receiver's satisfaction his ownership of any vessel or cargo recovered by the Receiver or taken charge of by him

under section 5(3) within a period of 12 months from the day on which the vessel or cargo was recovered or taken charge of, whichever is earlier, the Receiver shall as soon as possible, subject to subsection (2), sell the vessel or cargo.

(2) If any person establishes his ownership of the vessel or cargo to the Receiver's satisfaction within the period mentioned in subsection (1), or before a sale under that subsection takes place, he shall, subject to section 8, upon paying any salvage dues, any amount due under section 2(2) and the expenses and fees of the Receiver, or upon giving security for the payment thereof to the Receiver's satisfaction, be entitled to recover the vessel or cargo.

(3) Upon a sale by him of the vessel or cargo under subsection (1), the Receiver shall pay the proceeds of sale to Her Majesty's Receiver-General after deducting any salvage due, any amount due under section 2(2) and the expenses and fees of the Receiver.

(4) Subsections (1), (2) and (3) shall not apply if the vessel or cargo is historic wreck.

Immediate sale of wreck by Receiver in certain cases.

8. (1) The Receiver may at any time sell any vessel or cargo recovered, by him or taken charge of by him under section 5(3) if in his opinion –

- (a) its value is less than [£5,000] or such other sum as may be specified from time to time by Ordinance of the States of Guernsey,
- (b) it is so much damaged or of so perishable a nature that it cannot with advantage be kept, or
- (c) it is not of sufficient value to pay for warehousing,

and he shall hold the proceeds of sale for a period of 12 months from the day on which the vessel or cargo was recovered or taken charge of, whichever is the earlier.

(2) If any person establishes his ownership of the vessel or cargo to the Receiver's satisfaction within the period mentioned in subsection (1), he shall, upon paying any salvage due, any amount due under section 2(2) and the expenses and fees of the Receiver, be entitled to be paid the proceeds of sale.

(3) If no person establishes his ownership of the vessel or cargo to the Receiver's satisfaction within the period mentioned in subsection (1), the Receiver shall pay the proceeds of sale to Her Majesty's Receiver-General after deducting any salvage due, any amount due under section 2(2) and the expenses and fees of the Receiver.

(4) Subsections (1), (2) and (3) shall not apply if the vessel or cargo is historic wreck.

NOTE

In section 8, the figures and symbol in square brackets in paragraph (a) of subsection (1) were substituted by the Wreck and Salvage (Amendment) Ordinance, 1993, section 1, with effect from 29th September, 1993.

Delivery of wreck by Receiver.

9. Upon delivery of the vessel or cargo to the person who to the Receiver's satisfaction is, or is acting on behalf of, its owner or upon payment of the proceeds of sale to that person or to Her Majesty's Receiver-General in accordance with the provisions of this Law, the Receiver shall be discharged from all liability in respect thereof; but the delivery or payment shall not affect any right of any person to take legal proceedings in respect of the vessel, cargo or net proceeds of sale, as the case may be, against any other person.

Removal of wreck from local waters.

10. If without reasonable cause any person, not being or acting on behalf of either the owner or the Receiver, removes any wrecked vessel or the cargo of any such vessel from local waters, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale], to imprisonment for a term not exceeding two years or to both.

NOTE

In section 10, the words and figure 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.

Interference with wreck.

11. (1) No person shall –

- (a) board any vessel which is wrecked in local waters, unless he is or is acting on behalf of either the owner or the Receiver or a person acting as such under section 3,
- (b) impede or hinder the assistance of any such vessel or the saving of the cargo of or the life of any person on board any such vessel, or
- (c) deface or obliterate any marks on any such vessel or cargo.

(2) If without reasonable cause any person contravenes subsection (1), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale], to imprisonment for a term not exceeding 2 years or to both.

NOTE

In section 11, the words and figure 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.

Search warrants.

12. If the Receiver suspects that any person has recovered any vessel or cargo and has not delivered it to him or made it available for inspection by him in accordance with section 5(1)(b), the Bailiff may, on information on oath of the Receiver, grant him a warrant authorising him or any officer of police to search for and to seize or take charge of the vessel or cargo.

NOTE

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.

Removal of wreck by Receiver.

13. (1) If in the opinion of the Receiver any vessel which is wrecked in local waters or any cargo in local waters should be removed, he may serve a notice on the owner of the vessel or cargo requiring him to remove it within the time specified in the notice.

(2) If the owner does not comply with the notice, the Receiver may take charge of the vessel or cargo and –

- (a) raise or remove it,
- (b) if in his opinion it is impracticable to remove it, destroy it in whole or in part,
- (c) light or buoy it,
- (d) subject to subsections (3) and (4), sell it or any part of it, and shall deal with the proceeds of sale in the same way as he is required to deal with the proceeds of sale mentioned in section 8(1); except that for the purposes of this paragraph the period of 12 months mentioned in section 8(1) shall run from the day on which the notice requiring removal of the vessel or cargo was served under subsection (1).

(3) Except in the case of property which is of a perishable nature or which would deteriorate in value by delay, a sale shall not be made under subsection (2)(d) until at least seven days' notice of the intended sale has been published in La Gazette Officielle.

(4) If before any vessel or cargo is sold under subsection (2)(d) any person establishes his ownership of it to the Receiver's satisfaction, he shall, upon paying any salvage due, any amount due under section 2(2) and the expenses and fees of the Receiver or upon giving security for the payment thereof to the Receiver's satisfaction, be entitled to recover it.

Prohibited areas around dangerous wreck.

14. (1) If in the opinion of [the Committee for the Environment & Infrastructure] a vessel which is wrecked in local waters is a potential danger to life or property and on that account ought to be protected from unauthorised interference,

[the Committee for the Environment & Infrastructure] may by order designate an area round the vessel as a prohibited area.

(2) An order under this section shall identify the vessel and its location, and the prohibited area shall be any area within such distance of the vessel, specified by the order, as [the Committee for the Environment & Infrastructure] thinks fit to ensure that unauthorised persons are kept away from it.

(3) [The Committee for the Environment & Infrastructure] shall revoke an order under this section if in its opinion the vessel is not or is no longer a potential danger to life or property.

(4) No person shall without authority in writing granted by [the Committee for the Environment & Infrastructure] enter a prohibited area, whether on the surface or under water; and any such authority may be cancelled by [the Committee for the Environment & Infrastructure] at any time.

(5) Subject to subsection (6), if without reasonable cause any person contravenes subsection (4), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale].

(6) Nothing shall constitute an offence under subsection (4) if it is done by a person –

- (a) for the sole purpose of dealing with an emergency,
- (b) in exercising or seeing to the exercise of functions conferred on him or a body for which he acts by or under an enactment, or
- (c) out of necessity due to stress of weather or navigational

hazards.

(7) An order under this section may be made by the Receiver as if the references in this section to [the Committee for the Environment & Infrastructure] included references to the Receiver; and any such order shall have effect as if made by [the Committee for the Environment & Infrastructure] except that the order shall cease to have effect seventy-two hours after the day on which it was made unless previously confirmed by [the Committee for the Environment & Infrastructure].

(8) [The Committee for the Environment & Infrastructure] may take such steps as it thinks fit by the use of signs, buoys, lights or otherwise to alert any person to the fact that they are in the vicinity of a prohibited area.

NOTES

In section 14,

the words "T/the Committee for the Environment & Infrastructure" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016;

the words and figure 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.

PART 3

HISTORIC WRECK

Meaning of historic wreck.

15. In this Law "**historic wreck**" means anything in local waters which is or may prove to be –

- (a) a vessel which has lain wrecked for not less than 50

years or since any date prior to 1946, whichever period is shorter,

- (b) any cargo of such a vessel, or
- (c) any cargo or other object lost or abandoned for either of the periods mentioned in paragraph (a),

but does not include anything –

- (i) proved to the satisfaction of the Committee to have been found outside local waters, or
- (ii) declared by the Committee not to be historic wreck.

Ownership of historic wreck.

16. (1) The ownership of historic wreck shall vest in the States.

(2) If the Receiver recovers or takes charge under section 5(3) of any historic wreck, he shall as soon as possible inform the Committee of the fact and, if so directed by the Committee, place it in the Committee's custody.

(3) The States shall not be liable to pay compensation to any person for any loss suffered by virtue of this section.

Prohibition of tampering with historic wreck.

17. No person shall except under and in accordance with the conditions of a licence granted by the Committee tamper with, damage or remove any historic wreck not within a restricted area which he knows or reasonably ought to know to be historic wreck.

Restricted areas around sites of important wreck.

18. (1) If in the opinion of the Committee a site in local waters is or may prove to be the site of any vessel, cargo or other object on or in the sea bed and, because of the historical, archaeological or artistic importance of the vessel, cargo or other object, the site ought to be protected from unauthorised interference, the Committee may by order designate an area round the site as a restricted area.

[(2) An order under this section shall identify the restricted area (whether by specifying the location of the vessel, cargo or object or otherwise) in such manner as the Committee thinks fit to ensure the protection of the site.]

(3) The Committee shall revoke an order under this section if in its opinion there is not or is no longer any site in the area which requires protection under this section.

(4) No person shall in a restricted area except under and in accordance with the conditions of a licence granted by the Committee –

- (a) tamper with, damage or remove any vessel, cargo or other object on or in the sea bed,
- (b) carry out any diving or salvage operation or use equipment constructed or adapted for diving or salvage operations, or
- (c) deposit anything which, if it were to fall on the site of any vessel, cargo or other object, might wholly or partly obliterate the site, obstruct access to it or damage any part of the vessel, cargo or other object.

(5) In this section references to the sea bed include any area submerged at high water of ordinary spring tides.

(6) The Committee may take such steps as it thinks fit by the use of signs, buoys, lights or otherwise to alert any person to the fact that they are in the vicinity of a restricted area.

NOTES

In section 18, subsection (2) was substituted by the Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998, section 1(a), with effect from 18th August, 1998.

The following Orders have been made under section 18:

*Historic Wreck (Restricted Area) (No 2) Order 1991;
Historic Wreck (Restricted Area) (Casquets) Order, 1995;
Wreck and Salvage (Restricted Areas) Order, 1997.*

Powers of police and Receiver in relation to prohibited and restricted areas.

18A. (1) An officer of police, the Receiver and any person authorised by the Receiver in writing in that behalf may (without prejudice to the exercise by him of any other lawful power) exercise the powers conferred by this section in any place within the Bailiwick and the territorial waters adjacent thereto.

(2) He may arrest without warrant any person reasonably suspected by him of having committed an offence under section 14, 17 or 18.

(3) He may, for the purpose of determining whether or not any such offence has been committed, exercise the following powers in relation to any vessel which is within, or which is reasonably suspected by him of having entered, a prohibited or restricted area or which is reasonably suspected by him to be carrying persons who have committed any such offence –

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- (a) he may board the vessel (with or without persons assigned to assist him) and for that purpose require the vessel to stop and do anything else necessary to facilitate boarding,
- (b) he may require the attendance of the master and any other person on board the vessel and make any examination or inquiry appearing to him to be necessary,
- (c) he may examine anything carried on or belonging to the vessel, including its equipment, and require any person on board to do anything reasonably necessary to facilitate the examination,
- (d) he may require any person on board the vessel to produce any document which relates to the vessel, its activities or the persons on board and which is in that person's custody, possession or power, and take copies and extracts and require an explanation thereof,
- (e) he may search the vessel for any thing or document described in paragraph (c) or (d) and require any person on board to do anything reasonably necessary to facilitate the search.

(4) Where he has reason to suspect that an offence under section 14, 17 or 18 has been committed, he may –

- (a) seize and detain any thing or document described in paragraph (c) or (d) of subsection (3) produced to him

or found by him for the purpose of enabling it to be used as evidence,

- (b) require the master of any such vessel as is described in subsection (3) to take, or himself take, the vessel and its crew to whichever port in the Bailiwick appears to him to be the most convenient,
 - (c) detain or require the master to detain any such vessel in port, and require the master to do, or himself do, anything necessary to facilitate such detention, and
 - (d) seize any object in relation to which the offence appears to have been committed together with any diving, salvaging or other equipment used in connection with the commission of the offence.
- (5) A person who –
- (a) fails without reasonable excuse, proof whereof shall lie on him, to comply with a requirement imposed by, or to answer a question put by, a person described in subsection (1),
 - (b) prevents or attempts to prevent another person from so doing, or
 - (c) assaults, obstructs or fails to give all reasonable assistance to such a person in the exercise or purported exercise of the powers conferred by this section,

shall be guilty of an offence and liable –

- (i) on summary conviction, to a fine not exceeding level 5 on the Guernsey uniform scale of fines, to imprisonment for a term not exceeding 3 months or to both,
- (ii) on conviction on indictment, to a fine, to imprisonment for a term not exceeding 2 years or to both.]

NOTE

Section 18A was inserted by the Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998, section 1(b), with effect from 18th August, 1998.

Provisions supplementary to sections 17 and 18.

19. (1) A licence under section 17 or 18(4) shall be in writing and may be granted subject to such conditions and on payment of such fee as the Committee thinks fit.

(2) The licence and any conditions subject to which it was granted may be varied or revoked by the Committee at any time after giving not less than 7 days' notice to the licensee.

(3) The licence may contain such terms, if any, as to salvage payments as the Committee thinks fit.

(4) The licence shall only be granted to a person who in the opinion of the Committee –

- (a) is competent and properly equipped to perform exploratory or salvage operations in a manner appropriate to the historical, archaeological or artistic importance of the vessel, cargo or other object, or
- (b) in the case of a licence under section 18(4), has any other legitimate reason for doing in a restricted area what can only be done under such a licence.

(5) The States shall incur no liability by reason of the suffering by any party of any loss, damage or disturbance resulting from the acts or defaults of any person to whom the Committee has issued a licence under section 17 or 18(4) occurring while that person is engaged in any activity to which the licence relates.

(6) Subject to subsection (8), if without reasonable cause any person contravenes section 17 or 18(4), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale]; and if the offence is one under section 17 or 18(4)(a), he shall as an alternative to or in addition to the fine be liable to imprisonment for a term not exceeding two years.

(7) Subject to subsection (8), if without reasonable cause any person obstructs any other person in doing anything which that other person is authorised to do by a licence under section 17 or 18(4), he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 5 on the uniform scale].

(8) Nothing shall constitute an offence under section 17, 18(4) or subsection (7) if it is done by a person –

- (a) for the sole purpose of dealing with an emergency,

- (b) in exercising or seeing to the exercise of functions conferred on him or a body for which he acts by or under any enactment, or
- (c) out of necessity due to stress of weather or navigational hazards.

[(9) Where a person is convicted of an offence under section 17 or 18, the court convicting him may, in addition to imposing any penalty prescribed by law in relation to the offence, and without prejudice to any other power vested in the court or any other remedy, order the forfeiture, restitution, destruction or other disposal of any vessel, equipment, apparatus, object or other thing in relation to which or by means of which the offence was committed or which was used in connection with the commission of the offence.

(10) An appeal lies from an order of the court under subsection (9) in the same manner as if it were a penalty imposed upon conviction.]

NOTES

In section 19,

the words and figures in square brackets in subsection (6) and subsection (7) were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989;

subsection (9) and subsection (10) were inserted by the Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998, section 1(c), with effect from 18th August, 1998.

PART 4
SALVAGE

Salvage of vessels or cargo in local waters.

20. (1) Subject to section 23(2), if in local waters services are rendered by any person in assisting or recovering any wrecked vessel, in saving the life of any person on board or in saving any cargo, there shall be payable to the salvor a reasonable amount of salvage which shall be a charge on the vessel or cargo, as the case may be, or on the proceeds of sale in cases where the Receiver has exercised a power of sale under this Law and which, if disputed, may be determined by the Royal Court sitting as an Ordinary Court (referred to in this Part as "**the Court**") on application by or on behalf of any party to the dispute.

(2) If any dispute as to the amount of salvage payable is referred to the Court, the Court may call in to its assistance any person conversant with maritime affairs as assessor; and there shall be paid as part of the costs of the proceedings to every such assessor in respect of his services such sum as the Court may direct.

Valuation of property by Receiver.

21. (1) If there is any dispute as to the amount of salvage payable, the Receiver may, on application by or on behalf of any party to the dispute, appoint a valuer to value the vessel or cargo in respect of which the salvage services were performed and shall give copies of the valuation to the parties to the dispute.

(2) Any copy of the valuation certified as a true copy by the Receiver shall be admissible as evidence in any proceedings.

Apportionment of salvage by the Court.

22. If there is any dispute as to the apportionment of the amount of salvage payable, the Court may –

- (a) apportion the amount as it thinks fit,
- (b) appoint any person to carry the apportionment into effect,

- (c) compel any person under whose control the amount may be to distribute it or to bring it into Court,
- (d) for those purposes, cause the issue of such processes as it thinks fit.

[Provisions of Salvage Convention 1989 to prevail.]

22A. The provisions of this Part of this Law shall be subject in all respects to the provisions of –

- (a) the Salvage Convention (Bailiwick of Guernsey) Law, [1996], and
- (b) the International Convention on Salvage, 1989 as set out in Schedule 1 to the said Law (whether as originally enacted or as modified by Ordinance under section 1(3) of the said Law),

and accordingly in the event of any conflict between the provisions of this Part of this Law and the provisions of the said Law and Convention, the latter shall prevail.]

NOTES

Section 22A was inserted by the Salvage Convention (Bailiwick of Guernsey) Law, 1997, section 2, with effect from 1st January, 1998.

The date in square brackets in paragraph (a) shown, incorrectly, in the printed version of this section as "1996" should read "1997".

Salvage of historic wreck.

23. (1) Nothing in the foregoing provisions of this Part shall apply to

historic wreck.

(2) The amount of salvage payable by the States to the salvor of historic wreck shall be determined by the Committee after negotiation with the salvor.

PART 5
MISCELLANEOUS PROVISIONS

Application to Crown.

24. No function vested in any person by this Law shall be exercisable in respect of any vessel or cargo belonging to Her Majesty, Her Majesty's Armed Forces or Her Majesty's Government except with the consent of the Crown.

Appointment of Receiver.

25. [The Committee for the Environment & Infrastructure] shall appoint a person to the office of Receiver of Wreck to perform the functions vested by this Law in the Receiver.

NOTE

In section 25, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Fees and expenses of Receiver.

26. (1) There shall be paid to [the Committee for the Environment & Infrastructure] –

- (a) the expenses incurred by the Receiver in the performance of his functions under this Law, and
- (b) such fees, determined by order of [the Committee for

the Environment & Infrastructure], as are payable under the terms of the order in respect of the performance of those functions.

(2) The expenses and fees of the Receiver shall be recoverable by [the Committee for the Environment & Infrastructure] as a civil debt.

(3) [The Committee for the Environment & Infrastructure] shall in addition to all other rights and remedies for the recovery of the expenses and fees of the Receiver have the same rights and remedies in respect thereof as a salvor has in respect of salvage due to him.

NOTES

In section 26, the words "T/the Committee for the Environment & Infrastructure" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

The following Order has been made under section 26:

Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Fees Order, 1989.

Orders to be laid before the States and published.

27. An order under section 14 (not being an order made by the Receiver which has not been confirmed by [the Committee for the Environment & Infrastructure]), 18 or 26 –

- (a) shall be laid before a meeting of the States as soon as possible after being made and, if at that or the next meeting the States resolve to annul it, shall cease to have effect, but without prejudice to anything done under it or to the making of a new order,

- (b) shall be caused by [the Committee for the Environment & Infrastructure] or the Committee as the case may be to be published in La Gazette Officielle as soon as possible after being made and on at least one other occasion.

NOTE

In section 27, the words "the Committee for the Environment & Infrastructure" in square brackets, wherever occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Offences by bodies corporate.

28. If an offence under this Law is committed by a body corporate and is proved to have been committed with the consent or connivance of or to have been attributable to any neglect on the part of any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Attempts, etc.

29. If any person –

- (a) attempts to do anything, or
- (b) causes or permits any person to do anything,

which is an offence under this Law, he shall be guilty of the offence and liable to be proceeded against and punished accordingly.

Additional penalties for certain offences.

30. If any person is found to be guilty of an offence under section 5(1)(b)(ii), 10, 17 or 18(4)(a) the court convicting him may, in addition to the penalties prescribed by this Law for the offence of which he is guilty –

- (a) order him to pay a sum not exceeding double the value of the vessel, cargo or other object in respect of which the offence was committed to the owner of the vessel, cargo or other object as the case may be or, if the owner is not known, to Her Majesty's Receiver-General,
- (b) order any claim to salvage which he may have in respect of the vessel, cargo or other object to be forfeited.

Service of notices.

31. (1) Any notice to be given to or served on the Receiver under this Law may be given or served by delivering it to him, or by leaving it at or sending it by post addressed to him at the office of [the Committee for the Environment & Infrastructure].

(2) Any notice to be given to or served on any other person under this Law may be given or served by delivering it to him, or by leaving it at or sending it by post addressed to him at his usual or last known place of business or residence.

(3) Any such notice may –

- (a) in the case of a body corporate, be given or served by leaving it at or sending it by post addressed to it at its registered office if situated in the Island or, if not, at its principal or last known principal place of business,

whether in or outside the Island,

- (b) in the case of a partnership, be given to or served on any of the partners.

(4) If the name and address of the owner of any vessel or cargo to or on whom any notice is to be given or served under this Law cannot after reasonable inquiry be ascertained, the notice may be given or served by –

- (a) addressing it to the owner by the description of "the owner" of the vessel or cargo to which the notice relates, and
- (b) affixing it to some conspicuous part of the vessel or cargo or, if that is not practicable, by publishing it in La Gazette Officielle.

NOTE

In section 31, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016.

Interpretation.

32. (1) In this Law –

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

"cargo" includes anything contained in, carried on or belonging to or formerly contained in, carried on or belonging to a vessel,

"the Committee" means [the States [Committee for Education, Sport & Culture]],

"the expenses and fees of the Receiver" mean the expenses and fees mentioned in section 26(1),

"historic wreck" has the meaning given by section 15,

"the Island" means the Islands of Guernsey, Herm and Jethou,

"local waters" means the shores of the Island and the territorial waters adjacent thereto,

"master" includes any person having command or charge of a vessel,

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

"prohibited area" means an area designated by [the Committee for the Environment & Infrastructure] or Receiver by an order under section 14,

"Receiver" means the person appointed to the office of Receiver of Wreck under section 25,

"restricted area" means an area designated by the Committee by an order under section 18,

"salvage" includes all expenses properly incurred by a salvor in the performance of salvage services,

"the States" means the States of Guernsey,

"vessel" means any description of vessel used in navigation and –

(a) includes a hovercraft within the meaning of the Hovercraft Act 1968,

(b) includes part of a vessel, and

"wrecked", in relation to a vessel, means that the vessel is wrecked, sunk, abandoned, derelict, stranded or in distress.

(2) The Interpretation (Guernsey) Law, 1948^a shall apply to the interpretation of this Law throughout the Bailiwick.

(3) Any reference in this Law to a section, Part or Schedule bearing a number is a reference to the section, Part or Schedule of or to this Law bearing that number.

(4) Any reference in any provision of this Law to a subsection or paragraph bearing a number or letter is a reference to the subsection or paragraph of that provision bearing that number or letter.

NOTES

In section 32,

the words in, first, the first and, second, the second pairs of square brackets in the definition of the expression "the Committee for the Environment & Infrastructure" in subsection (1) and, third, the words "the Committee for the Environment & Infrastructure" in square brackets wherever else occurring were substituted by the Organisation of States'

^a Ordres en Conseil Vol. XIII, p. 355.

*Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(3), Schedule 3, paragraph 5, section 2, Schedule 1, paragraph 12(a) and section 5(3), Schedule 3, paragraph 5, with effect from 1st May, 2016;*¹

the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Heritage Committee Ordinance, 1994, section 1(b), with effect from 1st June, 1994, subject to the savings and transitional provisions in section 2(1) and (3) of the 1994 Ordinance;

*the words in square brackets within the square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 2(a), with effect from 1st May, 2016.*²

*The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law 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 12(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 Culture and Leisure Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Committee for Education, Sport & Culture and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 2(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*⁴

In accordance with the provisions of the Police Force (Bailiwick of Guernsey) Law, 1986, section 2(2), with effect from 19th August, 1986, the reference herein to a member of the salaried police force of the Island of Guernsey shall include a reference to a member of a force present in the Island by virtue of an agreement made under section 1 of the 1986 Law.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Application to aircraft.

33. This Law (except section 4) shall apply to aircraft as it applies to vessels, subject to the following modifications –

- (a) any reference to a master shall be construed as a reference to the commander or other person in charge of an aircraft,
- (b) subject to paragraph (c), any reference to a vessel except in this section shall be construed as a reference to an aircraft, and
- (c) for the definition of "**vessel**" in section 32(1) substitute –

"**aircraft**" means any description of aircraft and includes part of an aircraft."

Application to Alderney and Sark.

34. This Law has effect –

- (a) in the Island of Alderney, subject to Schedule 1,
- (b) in the Island of Sark, subject to Schedule 2.

Citation and commencement.

35. (1) This Law may be cited as the Wreck and Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986.

(2) This Law shall come into force on the day appointed by Ordinance of the States.

NOTE

The Law was brought into force on 29th April, 1987 by the Wreck and

*Salvage (Vessels and Aircraft) (Bailiwick of Guernsey) Law, 1986
(Commencement) Ordinance, 1987, section 1.*

SCHEDULE 1

Section 34

APPLICATION TO THE ISLAND OF ALDERNEY

*Exceptions, adaptations and modifications subject to which this Law applies to the
Island of Alderney*

1. For "[the Committee for the Environment & Infrastructure]" wherever that expression occurs (except in section 32(1)) substitute "the Committee".
2. In section 4(2), for "the Greffe" substitute "the States Office".
3. For "Her Majesty's Receiver-General", wherever that expression occurs, substitute "the States".
4. In sections 6(1), 13(3), 27(b) and 31(4), after "La Gazette Officielle" insert "of the Island of Guernsey".
5. In section 12, for "the Bailiff" substitute "the Chairman of the Court of Alderney".
6. In section 20(1), for "the Royal Court sitting as an Ordinary Court" substitute "the Court of Alderney".
7. In section 32(1), omit the definitions of "[the Committee for the Environment & Infrastructure]", "the Committee", "the Island", "officer of police" and "the States" and insert the following definitions –

""**the Committee**" means the Committee of the States responsible for the administration of the harbour at Braye or such other committee as the States may from time to time appoint,"

"the Island" means the Island of Alderney,"

"officer of police" means, in addition to any person included in the definition of that expression as set out in section 32(1) of this Law, a member of any police force which may be established by the States of Alderney and, within the limits of his jurisdiction, a special constable appointed [or deemed to be appointed pursuant to the provisions of an Ordinance made under section 46A] of the Government of Alderney Law, 1987^{aa},"], and

"the States" means the States of Alderney,".

8. In section 35(2), after "the States" insert "of Guernsey".

NOTES

In Schedule 1,

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

the definition of the expression "officer of police" in paragraph 7 was substituted by the Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998, section 1(d), with effect from 18th August, 1998;

the words in square brackets within the definition of the expression "officer of police" in paragraph 7 were substituted by the Government of Alderney (Amendment) Law, 2000, section 2, with effect from 19th June, 2002.

The functions of the Committee under this Law, in its application to Alderney, were transferred to the General Services Committee by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 2, Schedule 2, Part I, paragraph 12, with effect from 2nd April, 1997, subject to the savings and transitional provisions in section 3 of the 1997 Ordinance.

The Government of Alderney Law, 1987 has since been repealed by the

^{aa} Ordres en Conseil Vol. XXX, p. 37; and No. XI of 1988.

Consolidated text

Government of Alderney Law, 2004, section 63(1), Schedule 3, with effect from 1st May, 2005, subject to the savings and transitional provisions in section 63(2) and section 64 of the 2004 Law.

SCHEDULE 2

Section 34

APPLICATION TO THE ISLAND OF SARK

*Exceptions, adaptations and modifications subject to which this Law applies to the
Island of Sark*

1. For "the States", wherever that expression occurs (except in section 35(2)) substitute "the Chief Pleas".
2. For "[the Committee for the Environment & Infrastructure]" wherever that expression occurs (except in section 32(1)) substitute "the Committee".
3. For "Her Majesty's Receiver-General", wherever that expression occurs, substitute "the Seigneur or Dame, as the case may be".
4. In sections 6(1), 13(3), 27(b) and 31(4), after "La Gazette Officielle" insert "of the Island of Guernsey".
5. In section 12, for "the Bailiff" substitute "the Seneschal".
6. In section 20(1), for "the Royal Court sitting as an Ordinary Court" substitute "the Court of the Seneschal".
7. In section 32(1), omit the definitions of "[the Committee for the Environment & Infrastructure]", "the Committee", "the Island", "officer of police" and "the States" and insert the following definitions –

""**the Committee**" means the Committee of the Chief Pleas responsible for the administration of the harbour at Baie de la Maseline or such other committee as the Chief Pleas may from time to time appoint,"

""**the Island**"" means the Island of Sark," , and

"["**officer of police**"" means, in addition to any person included in the definition of that expression as set out in section 32(1) of this Law, the Constable and the Vingtenier,]".

8. In section 35(2), after "the States" insert "of Guernsey".

NOTES

In Schedule 2,

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

the words in square brackets in paragraph 7 were substituted by the Wreck and Salvage (Amendment) (Bailiwick of Guernsey) Law, 1998, section 1(e), with effect from 18th August, 1998.

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

² These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph

16(b), Schedule 2, paragraph 6(b), with effect from 6th May, 2004.

3 The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in then, 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(b), Schedule 2, paragraph 2(b), 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 Culture and Leisure Department and its Minister arising under or by virtue of this Law were previously transferred to and vested in then, respectively, from the Heritage Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 16(b), Schedule 2, paragraph 6(b), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.