

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Public Highways (Temporary Closure) Ordinance, 1999**

\*

[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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\* No. I of 1999 (Recueil d'Ordonnances Tome XXVIII, p. 185); as amended by the: Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); Public Highways (Temporary Closure) (Amendment) Ordinance, 2006 (No. L of 2006, Recueil d'Ordonnances Tome XXXI, p. 664); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Public Highways (Temporary Closure) (Amendment) Ordinance, 2022 (No. \*\* of 2022); Public Highways (Al Fresco Licences) (Fees) Regulations, 2014 (G.S.I. No. 67 of 2014); Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2016 (G.S.I. No. 85 of 2016); Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2018 (G.S.I. No. 68 of 2018); Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2025 (G.S.I. No. \*\* of 2025). See also the: Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); Fees, Charges and Penalties (Guernsey) Law, 2007 (No. VII of 2008).

# ORDINANCE OF THE STATES OF DELIBERATION

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## **The Public Highways (Temporary Closure) Ordinance, 1999**

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*(Made on 24th February, 1999.)*

## **The Public Highways (Temporary Closure) Ordinance, 1999**

**THE STATES**, in pursuance of their Resolution of the 25<sup>th</sup> day of March, 1998<sup>a</sup>, hereby order: –

### [PART I

### EFFECT OF "AL FRESCO" LICENCES AND PERMITS]

#### *Effect of "al fresco" licences*

#### **Abridgment of public right of access, etc.**

**1.** (1) Subject to subsection (2) and notwithstanding any [rule of law, whether customary or statutory,] to the contrary, at any time during which the holder of an "al fresco" licence [or permit] is entitled to occupy the specified area to which his licence [or permit] relates, no person shall have the right to pass and repass over, whether on foot or with animals or vehicles or be on, that specified area unless he does so, or is there, with the consent, express or implied, of the "al fresco" licensee [or permit holder].

(2) Subsection (1) does not apply to –

- (a) an officer of police, an officer of Customs and Excise or an immigration officer, acting in the course of his duty,
- (b) a member of the fire brigade, ambulance or other emergency service, acting in the course of his duty,

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<sup>a</sup> Article VI of Billet d'État No. VI of 1998.

- (c) a person lawfully exercising any power conferred by any enactment or lawfully discharging any function or duty on behalf of a Committee of the States, a parochial authority or the Gas Company, or
- (d) a vehicle or animal which is in the charge of a person mentioned in paragraph (a), (b) or (c).

## NOTES

*The words in square brackets before section 1 were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 2, with effect from 1st October, 2022.*

*In section 1, first, the words in the first pair of square brackets in subsection (1) were substituted, second, the words "or permit" in square brackets, wherever occurring and, third, the words in the fourth pair of square brackets in that subsection were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 3, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

## [PART II

### "AL FRESCO" LICENCES: APPLICATION TO ROYAL COURT]

#### *Applications for grant of "al fresco" licences*

#### **Particulars in application.**

2. (1) A person wishing to obtain an "al fresco" licence shall apply to the Royal Court in accordance with the provisions of [this Part].

(2) An application for an "al fresco" licence shall include the following particulars –

*Consolidated text*

- (a) the full name and address of the applicant,
- (b) the location of the area of the public highway for which the application is made, and
- (c) full details of –
  - (i) the purpose,
  - (ii) the hours of the day, and
  - (iii) the days of the year,

for which the "al fresco" licence is being sought.

**NOTES**

*The words in square brackets before section 2 were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 4, with effect from 1st October, 2022.*

*In section 2, the words in square brackets in subsection (1) were substituted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 5(a), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

**Formalities prior to application.**

3. (1) At least 28 clear days prior to the date on which an applicant proposes to make the application, he shall send to –

- (a) the Constables of the Parish in which the specified area is situated,

- (b) the States [Committee for the Environment & Infrastructure],
- (c) the States of Guernsey [Committee for Economic Development],
- (d) the States [Committee for Home Affairs], and
- (e) ...

a notice in writing containing the details prescribed in section 2(2) and full details of the date and time of the proposed application.

(2) Each notice sent pursuant to subsection (1) shall be accompanied by –

- (a) a plan drawn to scale showing the proposed dimensions and layout of the specified area, so as to indicate, in particular, the positioning of the tables, seating and other items of furniture and any means by which the extent of the specified area will be marked,
- (b) a full description of the tables, seating and other items of furniture proposed to be placed in the specified area, which may, where appropriate, include photographs, drawings or other visual representations, and
- (c) full details of any proposed screening, awnings or other means of enclosure and other extraneous fixtures and fittings in respect of the specified area.

(3) On two weekly occasions prior to the proposed application, an applicant shall cause a notice to be published in La Gazette Officielle in the manner prescribed by law, which shall contain –

- (a) the details prescribed in section 2(2),
- (b) full details of the date and time of the proposed application, and
- (c) a statement indicating that further details of the proposed application, including plans, may be inspected at the premises of the Constables of the Parish in which the specified area is situated.

(4) Unless an "al fresco" licence is already in force in respect of the specified area, an applicant shall cause a notice containing the details set out in subsection (3) to be affixed on or near premises in the vicinity of the specified area in question in such a manner as to be easily read by a person in a public place adjacent to those premises for 14 clear days prior to the date of the proposed application.

(5) An applicant in respect of a specified area which is not adjacent to premises over which he exercises control is not required to comply with subsection (4).

## **NOTES**

*In section 3,*

*the words in square brackets in paragraph (b) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016;<sup>1</sup>*

*the words in square brackets in paragraph (c) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;*<sup>2</sup>

*the words in square brackets in paragraph (d) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;*<sup>3</sup>

*paragraph (e) of subsection (1) was repealed by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 6, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*<sup>4</sup>

*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.*<sup>5</sup>

*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 Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*<sup>6</sup>

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*<sup>7</sup>

*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.*<sup>8</sup>

**[Duties of and hearings by the Royal Court.]**

4. (1) The Royal Court shall not dispose of any application under [this Part] unless the provisions of [this Part], when applicable to the particular case, have been complied with.

(2) Subject to subsection (3), an application made under [this Part] shall be heard and determined by the Ordinary Court.

(3) The Ordinary Court may, if it thinks fit, refer –

(a) any application under [this Part], or

(b) any matter arising from any application,

to the Full Court for it to hear and determine.]

**NOTES**

*Section 4 was substituted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2006, section 1, with effect from 29th November, 2006.*

*In section 4, the words "this Part" in square brackets, wherever occurring, were substituted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 5(b), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

*Grant, suspension, variation and forfeiture of "al fresco" licences*

**Reports to Royal Court.**

5. (1) Upon the hearing of an application for an "al fresco" licence, written reports shall be submitted by –

- (a) the Constables of the Parish in which the specified area is situated,
  - (b) the States [Committee for the Environment & Infrastructure],
  - (c) the States of Guernsey [Committee for Economic Development],
  - (d) the States [Committee for Home Affairs], setting out, in particular, the views of the fire brigade and the police on the application, and
  - (e) ...
- (2) A report under subsection (1)(a) shall contain –
- (a) a description of the specified area in question, the applicant's premises (if any) adjacent thereto and their immediate surroundings, and
  - (b) the objections (if any) –
    - (i) of the Constables and Douzaine, or
    - (ii) which have been received from interested parties or members of the public,

and may contain any other matter which the Constables consider pertinent to the application.

(3) If objections are made in accordance with subsection (2)(b), one of the Constables shall attend personally or by his representative before the Royal Court at the making of the application and, in default of such appearance, the Royal Court may hear and determine the said application.

(4) Where a report under paragraph (b), (c), (d) or (e) of subsection (1) does not raise any objection to the application, that report may consist of a letter to that effect.

## NOTES

*In section 5,*

*the words in square brackets in paragraph (b) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016;<sup>9</sup>*

*the words in square brackets in paragraph (c) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>10</sup>*

*the words in square brackets in paragraph (d) of subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 6(a), with effect from 1st May, 2016;<sup>11</sup>*

*paragraph (e) of subsection (1) was repealed by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 7, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.<sup>12</sup>*

*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.<sup>13</sup>*

*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 Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>14</sup>*

*The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Home Affairs and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 6(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>15</sup>*

*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.<sup>16</sup>*

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### **Grant of "al fresco" licence.**

6. (1) The Royal Court may, on application being made to it in accordance with the provisions of [this Part] and after taking into account the reports submitted by virtue of section 5, grant to the applicant an "al fresco" licence authorising the applicant to [occupy the specified area in accordance with section 1] during the hours and days mentioned and for the purposes specified and subject to any conditions imposed therein.

(2) A licence granted under subsection (1) may be made subject to such conditions as the Royal Court thinks fit to impose and (without prejudice to the generality of the foregoing) may, when an officer of police or a member of the fire brigade is of the opinion that an emergency has arisen requiring its immediate suspension, be liable upon his direction to such suspension.

(3) A person shall not be refused the grant or renewal of an "al fresco" licence solely on the ground that he is already the holder of one or more "al fresco" licences if the Royal Court is satisfied that he can adequately supervise the exercise of each such licence granted to him.

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**NOTE**

*In section 6, the words in the first and second pairs of square brackets in subsection (1) were substituted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, respectively section 5(c) and section 8, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**Period of validity of "al fresco" licences and renewals.**

7. (1) Unless suspended or forfeited under this Ordinance, an "al fresco" licence granted under section 6 shall be valid –

- (a) from such day as the Royal Court directs until the [30<sup>th</sup> September ("**the expiration date**")] next following, or
- (b) where the application is not unlimited as respects the days of the year, between such days as the Royal Court determines.

(2) If renewed, unless suspended or forfeited under this Ordinance, an "al fresco" licence shall be valid –

- [(a) from the 1<sup>st</sup> October until the expiration date in the following year, or]
- (b) between the days previously determined by the Royal Court.

(3) An "al fresco" licence shall, subject to the provisions of subsections (4) to [(6)] and section 10, be granted or renewed for any year upon payment on or before the [expiration date] to Her Majesty's Greffier of the annual fee prescribed in section 13 in one payment, and in default shall cease to be valid on the [1<sup>st</sup> October] next following.

[ (3A) Despite the provisions of subsection (3), Her Majesty's Greffier may, if Her Majesty's Greffier thinks fit having regard to all the circumstances, receive and deal with an application for renewal of an "al fresco" licence after the expiration date, and any such renewal shall be deemed to have had effect from the day after the expiration date.]

(4) The Constables of the Parish in which the specified area is situated, or a Committee of the States mentioned in section 3(1), as the case may be, may, if they consider there is good reason to do so, object to the renewal of an "al fresco" licence and (without prejudice to the generality of the foregoing) shall consider any objections they receive from any person or body.

(5) Any objection to a renewal of an "al fresco" licence shall be lodged in writing at the Greffe before the 31<sup>st</sup> [July preceding the expiration date] and a copy served on the "al fresco" licensee.

(6) The Royal Court shall consider any objection made under this section and shall have power to renew the licence, renew it with conditions attached, or refuse to renew it.

[ (6)] Upon considering an objection, the Royal Court shall hear the evidence in support thereof and any evidence by or on behalf of the "al fresco" licensee before reaching a decision.

[ (7)] The powers set out in this section are in addition to and not in derogation from the powers contained in section 10.

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**NOTES**

*In section 7, first, the words in square brackets in subsection (1)(a), second, paragraph (a) of subsection (2) and, third, the words in the second and third pairs of square brackets in subsection (3) were all substituted, fourth, subsection (3A) was inserted and, fifth, the words in square brackets in subsection (5) were substituted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 9, respectively paragraph (a), paragraph (b), paragraph (c), paragraph (d) and paragraph (e), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

*The figures in square brackets in subsection (3), subsection (7) and subsection (8) shown, incorrectly, in the printed version of this section, as, respectively, "(6)", "(6)" and "(7)" should read, respectively, "(7)", "(7)" and "(8)".*

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**Application to vary "al fresco" licence.**

8. (1) An "al fresco" licensee wishing to vary –
- (a) the purpose,
  - (b) the hours of the day,
  - (c) the days of the year, or
  - (d) any other condition,

of his "al fresco" licence shall apply to the Royal Court for approval of the variation.

(2) An application under subsection (1) shall be subject to the same requirements under this Ordinance as if it were an original application for the grant of an "al fresco" licence.

**Functions of Her Majesty's Greffier.**

9. (1) Her Majesty's Greffier shall as soon as reasonably practicable after an "al fresco" licence has been granted, or its terms varied, by the Royal Court, and upon being satisfied that the fees prescribed by this Ordinance have been paid, issue to the "al fresco" licensee concerned an "al fresco" licence certificate in such form as Her Majesty's Greffier may from time to time determine.

(2) Her Majesty's Greffier shall keep a register of all "al fresco" licences granted by the Royal Court under the provisions of section 6.

(3) Her Majesty's Greffier shall from time to time amend the register kept in accordance with subsection (2) in the following circumstances –

- (a) upon suspension, forfeiture or non-renewal of an "al fresco" licence, or
- (b) upon variation of the terms of an "al fresco" licence, or
- (c) where an "al fresco" licensee informs him that he has ceased or will cease to exercise that licence, or
- (d) upon a change of name by an "al fresco" licensee, or
- (e) upon an "al fresco" licence ceasing for any other reason to be valid.

**Applications by Her Majesty's Procureur.**

10. (1) The Royal Court may, upon an application being made to it by or on behalf of Her Majesty's Procureur –

- (a) suspend, vary or order the forfeiture of an "al fresco" licence, or
- (b) direct Her Majesty's Greffier not to renew an "al fresco" licence held by the "al fresco" licensee named in the application.

(2) In proceedings under this section Her Majesty's Procureur shall summon the "al fresco" licensee named in the application to appear before the Royal Court to show cause why his "al fresco" licence should not be suspended, varied or forfeited or why the Royal Court should not direct Her Majesty's Greffier not to renew the "al fresco" licence; and the summons shall state shortly the grounds upon which Her Majesty's Procureur intends to rely to support the application.

(3) Upon considering an application, the Royal Court shall hear the evidence in support thereof and any evidence by or on behalf of the "al fresco" licensee before reaching a decision.

(4) Her Majesty's Procureur may –

- (a) at his discretion, or
- (b) at the request of –
  - (i) the Constables of the Parish in which the specified area is situated, or
  - (ii) a Committee of the States mentioned in section 3(1),

make an application in pursuance of the provisions of subsection (1).

**Renewal of "al fresco" licence after suspension.**

11. Where a court orders the suspension of an "al fresco" licence in pursuance of any of the provisions of this Ordinance and that period of suspension does not end until after the unexpired portion of the period for which the "al fresco" licence is then current, the "al fresco" licensee may, upon payment of the appropriate fee, renew that "al fresco" licence at the end of the period then current but the "al fresco" licence so renewed shall be of no effect until the period of suspension is ended.

**Change of name of "al fresco" licensee or adjacent premises.**

12. An "al fresco" licensee who changes his name or the name of the premises (if any) controlled by him adjacent to the specified area shall as soon as reasonably practicable thereafter notify Her Majesty's Greffier and the Chief Officer of the Island Police Force in writing thereof and at the same time send his "al fresco" licence to Her Majesty's Greffier for amendment.

[PART III

APPLICATIONS FOR "AL FRESCO PERMITS" IN DESIGNATED ZONES

**Designation of "al fresco" zones.**

- 12A. (1) The Committee may, from time to time, by order –
- (a) designate any area as an "al fresco" zone ("**designated zone**") for the purpose of this Part,
  - (b) prescribe, in respect of such designated zone, conditions of general application which shall, subject to variation under section 12B(6), be attached to permits issued under this Part in that designated zone,

as it thinks fit.

(2) In any case where the Committee proposes to make an order under this section, the Committee shall –

- (a) place a notice in La Gazette Officielle setting out –
  - (i) that the proposals have been published,
  - (ii) the times and public places at which the proposals are available for public inspection, and
  - (iii) the period, which shall be not less than seven days beginning with the date of the publication, within which any representations in respect of the proposals may be sent to the Committee,
- (b) make the proposals, including maps of the proposed designated zone ("**proposed zone**"), available for inspection –
  - (i) on the States of Guernsey website,
  - (ii) at the premises of the Constables of the parishes in which the proposed zone is situated, and
  - (iii) in such other public place or places as the Committee considers appropriate, and

- (c) send a copy of the proposals, including a map of the proposed zone, to –
  - (i) the Constables of the parishes in which the proposed zone is situated,
  - (ii) the States Committee for Economic Development,
  - (iii) the States Committee for Home Affairs, and
  - (iv) such other committee or body as the Committee considers appropriate having regard to the location of the proposed zone,

together with a statement of the period for representations mentioned in paragraph (a)(iii).

(3) The Committee shall, before making an order under this section, consider any representations sent to the Committee pursuant to subsection (2).]

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**NOTES**

*Part III, and section 12A thereof, were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

*The following Order has been made under section 12A:*

*Public Highways (Designation of "Al Fresco" Zones and General Conditions) Order, 2022.*

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**Application for "al fresco" permit.**

**12B.** (1) A person wishing to obtain an "al fresco" permit ("**permit**") in respect of any area of the public highway situated in a designated zone shall apply to the Committee in such form and manner as the Committee may determine.

(2) An application for a permit shall include, without limitation, the following particulars –

- (a) the full name and address of the applicant,
- (b) the location of the area of the public highway for which the application is made,
- (c) full details of –
  - (i) the purpose,
  - (ii) the hours of the day, and
  - (iii) the days of the year,

for which the permit is being sought.

(3) Upon receipt of an application under subsection (1), and at any time thereafter, the Committee may require the applicant to supply such additional information as it may reasonably consider necessary to determine the application.

(4) The Committee may, having taken into account the application and any additional information supplied to it –

- (a) subject to subsections (5) and (6), grant to the applicant a permit authorising the applicant to occupy the specified area in accordance with section 1 during the hours and days mentioned and for the purposes specified therein, or
- (b) refuse to grant to the applicant a permit.

(5) A permit granted under subsection (4) shall be made subject to

—

- (a) such conditions as may be prescribed under section 12A(1)(b), unless varied by the Committee under subsection (6), and
- (b) such other conditions as the Committee may consider necessary or expedient.

(6) The Committee may, if it thinks fit in any particular case, vary the conditions prescribed under section 12A(1)(b).

(7) The Committee may, if it thinks fit during the validity of a permit, and subject to section 12F(2), attach such other conditions to that permit, or vary those previously attached, as the Committee considers necessary or expedient.

(8) Without prejudice to any conditions attached to the permit, a permit issued under this Part is liable to immediate suspension upon the direction of an officer of police or a member of the fire brigade if such officer or member is of the opinion that an emergency has arisen requiring such immediate suspension.]

**NOTE**

*Section 12B was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**Period of validity of "al fresco" permits and renewals.**

**12C.** (1) Unless suspended or forfeited under this Ordinance, a permit granted under section 12B shall be valid –

- (a) from such day as the Committee directs until the 30<sup>th</sup> September ("**the expiration date**") next following, or
- (b) where the application is not unlimited as respects the days of the year, on or between such days as the Committee may determine.

(2) If renewed, unless suspended or forfeited under this Ordinance, a permit shall be valid –

- (a) from the 1<sup>st</sup> October until the expiration date in the following year, or
- (b) on or between the days previously determined by the Committee.

(3) Subject to subsection (4) and section 12G, a permit shall be renewed for any year upon payment on or before the expiration date to the Committee of the renewal fee prescribed in section 13 in one payment, and in default shall cease to be valid after the expiration date.

(4) Despite the provisions of subsection (3), the Committee may, if

it thinks fit in all the circumstances, receive and deal with an application for renewal of a permit after the expiration date and any such renewal shall be deemed to have had effect from the day after the expiration date.

(5) Where a permit is suspended in pursuance of any of the provisions of this Ordinance and that period of suspension does not end until after the unexpired portion of the period for which the permit is then current, the permit holder may, upon payment of the appropriate fee, renew that permit at the end of the period then current but the permit so renewed shall be of no effect until the period of suspension is ended.]

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**NOTE**

*Section 12C was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**[Register of "al fresco" permits.]**

**12D.** (1) The Committee shall, having granted a permit, and subject to payment of the fees prescribed under this Ordinance, issue to the applicant a permit in such form as the Committee may from time to time determine.

(2) The Committee shall keep a register, in such form as the Committee shall determine, of permits issued by the Committee under this Part.

(3) The Committee shall from time to time amend the register kept in accordance with subsection (2) in the following circumstances –

- (a) upon suspension, forfeiture or non-renewal of a permit,
- or

- (b) upon variation of the conditions of a permit, or
- (c) where a permit holder informs the Committee that the permit holder has ceased or will cease to exercise that permit, or
- (d) upon a change of name by a permit holder, or
- (e) upon a permit ceasing for any other reason to be valid.]

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**NOTE**

*Section 12D was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**[Change of name of "al fresco" permit holder or adjacent premises.**

**12E.** In the event of a change of name of a permit holder or of the name of the premises (if any) controlled by the permit holder adjacent to the specified area, the permit holder shall as soon as reasonably practicable notify the Committee and the Chief Officer of Police in writing thereof, and at the same time send the permit to the Committee for amendment.]

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**NOTE**

*Section 12E was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**[Notices.**

**12F.** (1) If the Committee decides to refuse to grant an application for a

permit, the Committee shall give the applicant written notice stating –

- (a) the terms of, and the reasons for, the decision, and
  - (b) particulars of the right of appeal under section 12H.
- (2) If the Committee intends, in relation to a valid permit, to –
- (a) attach any condition or vary any condition previously attached, or
  - (b) suspend or forfeit that permit,

("the decision") the Committee shall give the applicant ("A") written notice stating –

- (i) that the Committee intends to make the decision,
- (ii) the terms of, and the reasons for, the proposed decision,
- (iii) that A may, within a period of 14 days beginning on the date of the notice, make written representations to the Committee in respect of the proposed decision, and
- (iv) particulars of the right of appeal which would be exercisable under section 12H if the Committee were to make the decision,

and the Committee shall consider any representations made in response to a notice

given under this subsection before giving further consideration to the proposed decision.

(3) Where the Committee decides, having taken into account (where applicable) any representations, to make a decision in respect of which a right of appeal is conferred by section 12H, it shall give written notice to the person to whom the decision relates stating –

- (a) the terms of, and the reasons for, the decision, and
- (b) particulars of the right of appeal under section 12H.]

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**NOTE**

*Section 12F was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**[Suspension, forfeiture or non-renewal of "al fresco" permit.**

**12G.** Subject to section 12F(2), the Committee may suspend, or forfeit, a permit if it is satisfied that –

- (a) the permit holder has breached a condition attached to the permit,
- (b) the permit holder has been convicted of an offence under section 14,

or the Committee is otherwise satisfied in all the circumstances of the case that the permit should be suspended, or forfeited, as the case may be.]

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**NOTE**

*Section 12G was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**[Appeals.**

**12H.** (1) A person aggrieved by a decision of the Committee under this Part may appeal to the Royal Court ("**the Court**") against the decision.

(2) The grounds of an appeal under this section are that –

- (a) the decision was *ultra vires* or there was some other error of law,
- (b) the decision was unreasonable,
- (c) the decision was made in bad faith,
- (d) there was a lack of proportionality,
- (e) there was a material error as to the facts or as to the procedure.

(3) Subject to subsection (4), an appeal under this section shall be instituted –

- (a) within a period of 28 days immediately following the date of the notice of the decision,

- (b) by summons served on the Committee stating the grounds and material facts on which the appellant relies.

(4) The Committee may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution, and on hearing the application the Royal Court may –

- (a) dismiss the appeal or dismiss the application (in either case, on such terms and conditions as the Court may direct), or
- (b) make such other order as the Court considers just.

The provisions of this section are without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007.

(5) On an appeal under this section the Court may –

- (a) set the decision aside and, if the Court considers it appropriate to do so, remit the matter to the Committee with such directions as the Court thinks fit, or
- (b) confirm the decision, in whole or in part.

(6) On an appeal under this section the Court may, on the application of the appellant or the Committee or of its own volition, and on such terms as the Court thinks just, suspend or modify the operation of the decision pending the determination of the appeal.

(7) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.]

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**NOTE**

*Section 12H was inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 10, with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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[PART IV  
GENERAL AND MISCELLANEOUS]

*Fees*

**Fees.**

13. (1) The fees payable under this Ordinance shall be –
- (a) in respect of an application for the grant of an "al fresco" licence or an application to vary the conditions attached to an "al fresco" licence –
    - (i) [ £221] to Her Majesty's Greffier, and
    - (ii) £20 to the Constables of the Parish in which the specified area is situated, [...]
  - (b) in respect of an application to renew an "al fresco" licence, [£221] to Her Majesty's Greffier[,]
  - [(c) in respect of an application for the grant of an "al fresco" permit or an application to vary the conditions

attached to such a permit, [£221] to the Committee, and

(d) in respect of an application to renew an "al fresco" permit, [£221] to the Committee.]

(2) Fees shall not be reimbursable (whether or not the application is granted).

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## NOTES

*The words in square brackets before section 13 were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 11, with effect from 1st October, 2022.*

*In section 13,*

*the symbols and figures "£221" in square brackets, wherever occurring in subsection (1), were substituted by the Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2025, regulation 1, with effect from 1st January, 2026 and subject, for the avoidance of doubt, to the provisions of regulation 2 of the 2025 Regulations;<sup>17</sup>*

*first, the word omitted in square brackets at the end of paragraph (a)(ii) of subsection (1) was repealed and the punctuation in square brackets at the end of subsection (1)(b) was substituted and, second, paragraph (c) and paragraph (d) of subsection (1) were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 12, respectively paragraph (a) and paragraph (b), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

*In accordance with the provisions of the Fees, Charges and Penalties (Guernsey) Law, 2007, section 1, Schedule, the power to prescribe by Ordinance the fees therein referred to and payable under this Ordinance may be exercised by Regulation, with effect from 19th May, 2008.*

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## *Offences and penalties*

### **Offences and penalties.**

**14.** (1) A person who exercises an "al fresco" licence [or permit] otherwise than in accordance with the conditions attached to it is guilty of an offence

and liable, on summary conviction, to a fine not exceeding level 4 on the uniform scale.

(2) A person who in connection with any application under this Ordinance knowingly makes any false statement or representation or produces or furnishes any information which he knows or believes to be false is guilty of an offence and liable, on summary conviction, to a term of imprisonment not exceeding three months or to a fine not exceeding level 4 on the uniform scale, or to both.

(3) Where a person is convicted of an offence under subsection (1), in addition to any penalty imposed, the court may order the "al fresco" licence[, or permit, as the case may be,] to be suspended for a period not exceeding three months and upon such order being made (which shall be considered as part of the sentence for purposes of appeal) the "al fresco" licence[, or permit, as the case may be,] shall cease to have effect during the period specified.

(4) Where a Notice of Appeal has been lodged in accordance with the Magistrate's Court (Criminal Appeals) (Guernsey) Law, 1988<sup>b</sup>, it is hereby declared that any order under subsection (3) may be suspended by the Magistrate's Court until the disposal of the appeal.

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**NOTE**

*In section 14, first, the words in square brackets in subsection (1) and, second, the words "or permit, as the case may be" in square brackets, wherever occurring in subsection (3), were inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 13, respectively paragraph (a) and paragraph (b), with effect from 1st October, 2022, subject to the transitional provisions in section 16 of the 2022 Ordinance.*

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**Offences by bodies corporate.**

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<sup>b</sup> Ordres en Conseil Vol. XXXI, p. 83.

**15.** (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

*General provisions*

**Service of notices.**

**16.** A notice under this Ordinance is validly served –

- (a) on any person, if delivered to him, left, or sent by registered post or recorded delivery service to him, at his usual or last known place of abode, within the Bailiwick or elsewhere,
- (b) on any partnership, if delivered to any partner, or left at, or sent by registered post or recorded delivery service to, the principal or last known place of business within the Bailiwick or elsewhere,
- (c) on any body corporate, if left at, or sent by registered post or recorded delivery service to, its registered office if situated in the Bailiwick, or if not so situated, to its principal or last known place of business within the Bailiwick or elsewhere.

**Amendment to 1929 Ordinance.**

17. In section (4) of Article II of the "Ordonnance relative au Trafic Véhiculaire en cette Île" of the 2<sup>nd</sup> March, 1929<sup>c</sup>, for "Leave" substitute "Save in accordance with a licence granted under the provisions of the Public Highways (Temporary Closure) Ordinance, 1999, leave".

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**NOTE**

*The Ordonnance relative au Trafic Véhiculaire en cette Île of the 2nd March, 1929 has since been repealed by the Road Traffic (Guernsey) Ordinance, 2019, section 16, with effect from 29th March, 2019.*

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**Interpretation.**

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

**"al fresco" licence**" means a licence granted under the provisions of section 6,

**"al fresco" licensee**" means the holder of an "al fresco" licence,

[ **"al fresco" permit**" means a permit granted under Part III,]

[ **"al fresco" permit holder**" means the holder of an "al fresco" permit,]

**"applicant"** means a person wishing to obtain an "al fresco" licence [or permit, as the case may be],

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<sup>c</sup> Recueil d'Ordonnances Tome VIII, pp. 184, 194 and 204; Tome X, pp. 9, 59 and 176; Tome XIII, p. 292; Tome XIV, p. 319; Tome XVI, p. 187; Tome XXI, p. 190; Tome XXII, p. 125; Tome XXIII, pp. 26 and 404; Tome XXV, p. 140; Tome XXVI, pp. 90 and 374.

**"application"** means an application for an "al fresco" licence [or permit, as the case may be],

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

[ **"designated zone"**: see section 12A(1)(a),]

**"fire brigade"** means the fire brigade of the Island of Guernsey,

[ **"the Full Court"** means the Royal Court of Guernsey sitting as a Full Court,]

**"the Gas Company"** has the same meaning as in section 1 of the Public Thoroughfares (Guernsey) Law, 1958<sup>d</sup>,

**"Her Majesty's Procureur"** includes Her Majesty's Comptroller,

**"officer of police"** means a member of the salaried police force of the Island of Guernsey, or, within the limits of his jurisdiction, a member of the Special Constabulary,

[ **"the Ordinary Court"** means the Royal Court of Guernsey sitting as an Ordinary Court,]

[ **"permit"** means an "al fresco" permit,]

[ **"permit holder"** means an "al fresco" permit holder,]

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<sup>d</sup> Ordres en Conseil Vol. XVII, p. 440; Vol. XXIII, p. 395.

**"public highway"** includes any road, street, lane or public place over which the public has, under the customary law of the Island, the right to pass and repass without let or hindrance, whether on foot or with animals or vehicles,

[ **"the Royal Court"** means –

- (a) the Ordinary Court or,
- (b) where the matter has been referred under section 4(3), the Full Court,]

**"specified area"** means the area of the public highway in respect of which an "al fresco" licence [or permit] is sought, or granted, as the case may be.

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

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## NOTES

*In section 18,*

*the definitions of the expressions, first, "al fresco" permit" and "al fresco" permit holder", second, "the Committee" and "designated zone" and, third, "permit" and "permit holder", fourth, the words "or permit, as the case may be", wherever occurring in the definitions of the expressions "applicant" and "application" and, fifth, the words in square brackets in the definition of the expression "specified area", all in subsection (1), were all inserted by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2022, section 14, respectively paragraph (a), paragraph (c), paragraph (d), paragraph (b) and paragraph (e), with effect from 1st October, 2022, subject*

to the transitional provisions in section 16 of the 2022 Ordinance;

*the definitions of the expressions "the Full Court" and "the Ordinary Court" were inserted, and the definition of the expression "the Royal Court" was substituted, by the Public Highways (Temporary Closure) (Amendment) Ordinance, 2006, respectively section 1(2)(a), section 1(2)(b) and section 1(2)(c), with effect from 29th November, 2006.*

*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.*

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**Extent.**

19. This Ordinance shall have effect in the Island of Guernsey.

**Citation.**

20. This Ordinance may be cited as the Public Highways (Temporary Closure) Ordinance, 1999.

**Commencement.**

21. This Ordinance shall come into force on the 1<sup>st</sup> March, 1999.

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1 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 29, 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 5, with effect from 6th May, 2004.

3 These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.

4 Prior to its repeal, paragraph (e) was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016; and transfers of functions were made by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 19, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1,

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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.

**5** The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Traffic Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 29, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**6** 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 and vested in them, respectively, from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**7** The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Committee for Home Affairs and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**8** The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Island Development Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 19, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**9** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 29, with effect from 6th May, 2004.

**10** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

**11** These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.

**12** Prior to its repeal, paragraph (e) was amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 19, with effect from 6th May, 2004; the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 4(a), with effect from 1st May, 2016; and transfers of functions were made by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 19, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; 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.

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**13** The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Traffic Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 29, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**14** 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 and vested in them, respectively, from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**15** The functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Committee for Home Affairs and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**16** The functions, rights and liabilities of the Environment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Island Development Committee and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 19, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

**17** These symbols and figures were previously substituted by the Public Highways (Al Fresco Licences) (Fees) Regulations, 2014, regulation 1, with effect from 24th November, 2014 and subject, for the avoidance of doubt, to the provisions of regulation 2 of the 2014 Regulations; the Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2016, regulation 1, with effect from 1st January, 2017 and subject, for the avoidance of doubt, to the provisions of regulation 2 of the 2016 Regulations; Public Highways ("Al Fresco" Licences) (Fees) Regulations, 2018, regulation 1, with effect from 1st January, 2019 and subject, for the avoidance of doubt, to the provisions of regulation 2 of the 2018 Regulations.