

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Road Traffic (Removal of Vehicles) Ordinance, 1969 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XVI, p. 165; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the States Supervisor (Transfer of Functions) (No. 2) Ordinance, 1972 (Recueil d'Ordonnances Tome XVIII, p. 24); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008 (No. VII of 2008, Recueil d'Ordonnances Tome XXXIII, p. 38); the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013 (No. XLIII of 2013). See also the Police Force (Bailiwick of Guernsey) Law, 1986 (Ordres en Conseil Vol. XXIX, p. 207); the Resolution of the States of Guernsey of 24th April, 1991 (Billet XI, proposition 1(4)); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016).

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ARRANGEMENT OF SECTIONS

PART I

Removal of motor vehicles from public highways

1. Power of officers of police to require motor vehicles causing obstruction to be moved, etc.
2. Power of officers of police to remove from a public highway motor vehicles causing obstruction, etc.
3. Manner of removing motor vehicles, etc.
4. Safe custody of motor vehicles which have been removed.

PART II

Disposal of motor vehicles abandoned on public highways

5. Application of Part II.
6. Power of the Committee to dispose of abandoned motor vehicles.
7. Duty of Committee to notify the owner of a motor vehicle of its intention to dispose of it.
8. Service of notices on other persons.
9. Duty of Committee to ascertain the ownership of a motor vehicle.
10. Committee to make further enquiries in certain cases.
11. Provisions of sections seven and eight to apply in certain cases.
12. Committee not required to make enquiries in certain cases.
13. Deductions from proceeds of sale.
14. Recouping of costs.
15. Application of proceeds of sale of a motor vehicle.
16. Service of notices.

PART III

Interpretation, citation and commencement

17. Interpretation.
18. Citation.
19. Commencement.

(Made on 29th October, 1969.)

The Road Traffic (Removal of Vehicles) Ordinance, 1969

THE STATES, in pursuance of their Resolution of the twenty-ninth day of July, nineteen hundred and sixty-four, and in exercise of the powers conferred upon them by section one and section four of the Road Traffic (Removal of Vehicles) (Guernsey) Law, 1968^a, and of all other powers enabling them in that behalf, hereby order: –

PART I

Removal of motor vehicles from public highways

Power of officers of police to require motor vehicles causing obstruction to be moved, etc.

1. (1) This section shall apply to a motor vehicle which –
 - (a) has broken down, or been permitted to remain at rest, on a public highway in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the public highway or as to be likely to cause danger to such other persons, or
 - (b) has been permitted to remain at rest on a public highway in contravention of any enactment.
- (2) An officer of police may require the owner, driver or other

^a No. III of 1968.

person in control or in charge of any motor vehicle to which this section applies to move it or cause it to be moved, and any such requirement may include a requirement that the motor vehicle shall not be moved to any such public highway or to any such position on a public highway as may be specified.

(3) Any person who fails to comply as soon as practicable with any requirement given under the provisions of this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

(4) For the purposes of paragraph (b) of subsection (1) of this section, a motor vehicle which has broken down and has remained at rest for any period in any position on a public highway shall be treated as if it had been permitted to remain at rest in that position throughout that period.

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 of officers of police to remove from a public highway motor vehicles causing obstruction, etc.

2. Where a motor vehicle –

- (a) is a motor vehicle to which section one of this Ordinance applies, or
- (b) having broken down on a public highway, appears to have been abandoned, or
- (c) has been permitted to remain at rest on a public

highway in such a position or in such condition or in such circumstances as to appear to have been abandoned,

an officer of police may remove that motor vehicle or arrange for it to be removed from that public highway or may move it or arrange for it to be moved to another position on that or another public highway:

Provided that the powers conferred on an officer of police by this section shall not be exercised in the case of any motor vehicle by reason only of its being a motor vehicle which is causing obstruction unless the officer of police is of the opinion that, having regard to all the circumstances, the extent of the obstruction which the motor vehicle is causing is so serious that the motor vehicle ought not to remain where it is.

Manner of removing motor vehicles, etc.

3. Any person removing or moving a motor vehicle under the provisions of this Ordinance may do so by towing or driving the motor vehicle or in such other manner as he may think necessary and may take such measures in relation to the motor vehicle as he may think necessary to enable him to remove or move it as aforesaid.

Safe custody of motor vehicles which have been removed.

4. Where an officer of police removes or makes arrangements for the removal of a motor vehicle from a public highway under the provisions of this Ordinance he shall make such arrangements as may be reasonably necessary for the safe custody of the motor vehicle.

PART II

Disposal of motor vehicles abandoned on public highways

Application of Part II.

5. This Part of this Ordinance applies to a motor vehicle which has been, or could at any time be, removed from a public highway in pursuance of the provisions of Part I of this Ordinance and which appears to the Committee to have been abandoned.

Power of the Committee to dispose of abandoned motor vehicles.

6. (1) Subject to the provisions of the next succeeding subsection, the Committee may sell or otherwise dispose of a motor vehicle to which this Part of this Ordinance applies.

(2) The power of sale or disposal conferred by the provisions of subsection (1) of this section shall not be exercisable in respect of a motor vehicle unless a period of at least twenty-eight days shall have elapsed –

- (a) in the case where a notice has been served by the Committee under section seven of this Ordinance on the person who appears to the Committee to be the owner of that motor vehicle, from the date of the service of the notice,
- (b) in the case where the Committee has been unable to ascertain who is the owner of that motor vehicle, from the date on which the Chief Officer of Police shall have presented his report in respect of that motor vehicle to the Committee in accordance with the provisions of section nine of this Ordinance.

(3) The reference in paragraph (a) of the last preceding subsection to a notice served by the Committee under section seven of this Ordinance shall, in the case where two or more such notices have been so served in respect of the same

motor vehicle, be construed as a reference to the last of such notices to be so served.

Duty of Committee to notify the owner of a motor vehicle of its intention to dispose of it.

7. The Committee shall, where they are aware of the name and address of a person who appears to the Committee to be the owner of a motor vehicle, serve a notice on that person at that address stating that it is the intention of the Committee to sell or otherwise dispose of the motor vehicle (which shall be sufficiently described in the notice) on or after a date specified in the notice unless the motor vehicle is in the meantime removed by or on behalf of that person from such place as is specified by the Committee in the notice or from such other place as may be subsequently notified by the Committee to that person by notice served on that person.

Service of notices on other persons.

8. If a person on whom a notice has been served by the Committee in accordance with the provisions of the last preceding section informs the Committee of the name and address of some other person who he alleges may be the owner of the motor vehicle to which the notice relates, the Committee shall serve a notice stating the particulars mentioned in the last preceding section on that other person and on any further person who the Committee may in consequence of the service of the notice on the said other person be led to believe may be the owner of the motor vehicle.

Duty of Committee to ascertain the ownership of a motor vehicle.

9. (1) Subject to the provisions of subsection (2) of this section, where a motor vehicle to which this Part of this Ordinance applies does not carry an identification mark in accordance with the provisions of the Ordinance entitled "Ordonnance supplémentaire à l'Ordonnance ayant rapport au Trafic Véhiculaire en cette Île" made permanent on the eighteenth day of January, nineteen hundred and thirty-two^b, the Committee shall, where it intends to sell or otherwise dispose of that

^b Recueil d'Ordonnances Tome VI, p. 89.

motor vehicle under the provisions of section six of this Ordinance, direct the Chief Officer of Police to make such enquiries as the Committee considers reasonable as to who may be the person who is the owner of the motor vehicle and the address of that person, and the Chief Officer of Police shall, as soon as may be after completing such enquiries, present to the Committee a written report thereon.

(2) The provisions of subsection (1) of this section shall not apply in relation to any motor vehicle where the Committee is satisfied that a person has been found who appears to be the owner of that motor vehicle and the Committee has been informed of the address of that person.

Committee to make further enquiries in certain cases.

10. If, after the provisions of sections seven, eight and nine of this Ordinance have been complied with, a vehicle is not claimed, the Committee shall make such further enquiries (if any) as it considers reasonable as to who may be the owner of that vehicle and the address of that person.

Provisions of sections seven and eight to apply in certain cases.

11. Where by virtue of sections nine or ten of this Ordinance, the Committee is informed of the name and address of a person who it is considered may be the owner of the vehicle, sections seven and eight of this Ordinance as respects the service of notices shall apply in relation to that person at that address as they apply in relation to the person mentioned in the said section seven.

Committee not required to make enquiries in certain cases.

12. Nothing in the foregoing provisions of this Part of this Ordinance shall require the Committee to take any such step as is therein mentioned for the purpose of enquiring who is the owner of a motor vehicle to which this Part of this Ordinance applies, if it has found a person who satisfies it that he is in fact the owner of that vehicle and it has served on him at his address a notice containing the particulars specified in section seven of this Ordinance.

Deductions from proceeds of sale.

13. Upon the sale of a motor vehicle by the Committee, the Committee shall apply the proceeds of sale in or towards the satisfaction of any costs incurred by it in connection with the removal, storage or disposal of that motor vehicle.

Recouping of costs.

14. In the event of any costs mentioned in the last preceding section incurred by it in connection with the disposal of the motor vehicle not being satisfied by virtue of the provisions of the last preceding section, the Committee may recoup those costs so far as not satisfied from the person who was the last owner of the motor vehicle before it was removed from a public highway either in pursuance of this Ordinance or after it had been disposed of by virtue of the power of disposal conferred by this Ordinance, if a notice was served on that person by the Committee under the foregoing provisions of this Part of this Ordinance stating the particulars mentioned in section seven of this Ordinance.

Application of proceeds of sale of a motor vehicle.

15. Any sums received by the Committee on a sale of a motor vehicle under the provisions of section six of this Ordinance, after deducting any sum applied thereout by virtue of the provisions of section thirteen of this Ordinance, shall be payable within a period of one year from the date of the sale of the motor vehicle to any person to whom, but for such sale, the motor vehicle would have belonged, and in so far as any such sums are not claimed within the said period they shall be paid by the Committee to the [States Treasurer] for the account of the General Revenue.

NOTE

In section 15, the words in square brackets were substituted by the Chief Accountant (Transfer of Functions) (Guernsey) Ordinance, 2013, section 1, with effect from 1st December, 2013, subject to the savings and transitional provisions in section 2 of the 2013 Ordinance.¹

Service of notices.

16. Any notice required to be served under this Part of this Ordinance may be 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,
- (b) on any firm, if delivered to any partner of the firm or left at, or sent by registered post or recorded delivery service to, the principal or last known principal place of business of the firm,
- (c) on any body corporate, if left at, or sent by registered post or recorded delivery service to its registered office if situate in this Island, or, if its registered office is not so situate, its principal or last known principal place of business in this Island.

PART III

Interpretation, citation and commencement

Interpretation.

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

"the Committee" means the [States Committee for Home Affairs],

"owner" means, in relation to a motor vehicle which is the subject of a hire purchase agreement, the person in possession of the motor vehicle under that agreement,

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

"public highway" includes any road, street, lane or public place,

"motor vehicle" means a mechanically propelled vehicle intended or adapted for use on a public highway.

(2) In this Ordinance –

- (a) references to the removal of a motor vehicle from a public highway shall be construed as references to the removal of that motor vehicle from that public highway to a place which is not on that or any other public highway, and
- (b) references to removing, moving or making arrangements for the safe custody of a motor vehicle shall respectively include references to removing, moving or making arrangements for the safe custody of any load carried by the motor vehicle.

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

NOTES

In accordance with their Resolution of 24th April, 1991, concerning Billet d'État No. XI, dated 12th April, 1991, the States directed that the Island Police Committee as established under Article 2 of the Loi ayant rapport à la Police Salariée pour l'Île entière, 1920, the States Committees (Amendment) Law, 1948 and the Police Committee (Amendment) Law, 1990 should be the States Committee for Home Affairs. The functions, rights and liabilities of the States Committee for Home Affairs and of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the Home Department and its Minister arising under or by virtue of this Ordinance were subsequently 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.

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.

Citation.

18. This Ordinance may be cited as the Road Traffic (Removal of Vehicles) Ordinance, 1969.

Commencement.

19. This Ordinance shall come into force on the first day of November, nineteen hundred and sixty-nine.

1 These words were previously substituted by the States Supervisor (Transfer of Functions) (No. 2) Ordinance, 1972, section 3, Schedule, with effect from 1st April, 1972 (the powers and functions formerly vested in the States Supervisor and Treasurer of the States, by whatever name that office was described, under or by virtue of the provisions of this section and vested in the States Supervisor were transferred to and vested in the States Treasurer by the States Supervisor (Transfer of Functions) (No. 2) Ordinance, 1972, section 1(1), Schedule, with effect from 1st April, 1972, subject to the savings in section 2 of the 1972 Ordinance; all rights and liabilities enjoyed by, or incumbent on, the States Supervisor in, or as a result of, the exercise of the powers and functions under the provisions of this section were transferred to and vested in the States Treasurer by the States Supervisor (Transfer of Functions) (No. 2) Ordinance, 1972, section 1(2), Schedule, with effect from 1st April, 1972, subject to the savings in section 2 of the 1972 Ordinance); the States Treasurer (Transfer of Functions) (Guernsey) Ordinance, 2008, section 1, with effect from 1st February, 2008, subject to the savings and transitional provisions in section 2 of the 2008 Ordinance.