

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Control of Diseased Plant Material Ordinance, 1976 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XX, p. 428; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Control of Diseased Plant Material (Amendment) Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 306); 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). This Ordinance has been repealed by the Plant Health (Enabling Provisions) (Guernsey) Law, 2014 (No. X of 2014).

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The Control of Diseased Plant Material Ordinance, 1976

ARRANGEMENT OF SECTIONS

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SCHEDULE ...

(Made on 27th October, 1976.)

The Control of Diseased Plant Material Ordinance, 1976

THE STATES, in pursuance of their Resolution of the twenty-ninth day of November, nineteen hundred and seventy-two, hereby order: –

Examination of diseased plant material.

1. The Inspector upon production, if so required, of a certificate of his authority signed by [the President] of the Committee, may at any reasonable time enter on any land on which he has reason to believe is [any plant material] which is affected by any pests and may examine any plant material found [...] on such land and for the purposes of such examination may take sample of any such plant material.

NOTES

In section 1,

the words in the first pair of square brackets 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;¹

the words in the second pair of square brackets were substituted, and the words omitted in the third pair of square brackets were repealed, by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, respectively section 1(a)(i) and section 1(a)(ii), with effect from 1st May, 1991.

Action to be taken to prevent movement of diseased plant material.

2. The occupier of any land on becoming acquainted or being informed by the Inspector that any plant material [...] on the land of which he is the occupier is substantially affected by any pests shall take steps to prevent the movement of such plant material except under the authority of the Inspector.

NOTE

In section 2, the words omitted in square brackets were repealed by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, section 1(b), with effect from 1st May, 1991.

Power of the Committee to order destruction etc. of diseased plant material.

3. Where, as a result of an examination carried out under the provisions of section one of this Ordinance, any plant material [...] on land is found to be substantially affected by any pests and that any such pests are likely to spread to any other land in this Island, the Committee may serve on the occupier of such land a notice in writing requiring him within such time as shall be specified in the notice to adopt one or more of the following measures, that is to say –

- (a) to destroy the plant material or such of it as may be specified in the notice,
- (b) to disinfect, treat or dispose of the plant material or such of it as may be specified in the notice,
- (c) to take such action as may be deemed expedient by the Committee to prevent the spread of any pests or disease.

NOTE

In section 3, the words omitted in square brackets were repealed by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, section 1(b), with effect from 1st May, 1991.

Destruction etc. of diseased plant material.

4. Any destruction, disinfection, treatment or removal, as the case may be, of any plant material required by a notice served under the provisions of the last preceding section shall be carried out at the expense of the person upon whom the notice is served at such place and in such manner as shall be specified by the Inspector and to his satisfaction and, except with his written authority, none of the affected plant material shall be moved otherwise than to such place.

Powers of the Committee.

5. Where a notice has been served on any person under the provisions of section three of this Ordinance and such person shall have failed fully to comply with the requirements of such notice then, without prejudice to any proceedings

under this Ordinance consequent upon such failure, the Committee may apply ex parte to the Court for an Order authorising the Inspector to enter on any land in which the affected plant material or any part of it may be and to remove, destroy or otherwise dispose of it; and the cost of taking such action shall be recoverable by the States from such person as a civil debt.

Service of notices.

6. Any notice which may be served for the purposes of this Ordinance shall be validly served –

- (a) on any person, if delivered to him, left, or sent by registered post or by 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 by 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 by 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.

Offences.

7. If any person –

- (a) fails to comply with any requirement of a notice served on him by the Committee under the provisions of section three of this Ordinance, or
- (b) fails to take any steps which he is required to take under section two of this Ordinance, or
- (c) fails to do any act which he is required to do by the

Inspector under any of the provisions of this Ordinance, or

- (d) wilfully obstructs the Inspector in the exercise of any of his powers under any of the provisions of this Ordinance,

he shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the uniform scale], and the Court may, in addition, order the seizure, destruction or other disposal of the plant material or any part of it to which the conviction relates at the expense of the convicted person.

NOTE

In section 7, 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.

Offences by bodies corporate.

8. Where a person convicted of an offence under this Ordinance is a body corporate, every person who, at the time of the commission of the offence, was a director or officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

Power to amend Schedule by order.

9. ...

NOTE

Section 9 was repealed by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, section 1(c), with effect from 1st May, 1991.

Interpretation.

10. (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 Economic Development],

"the Court" means the Magistrate's Court constituted under the Magistrate's Court (Guernsey) Law, 1954^a,

"the Inspector" means the States Plant Health Inspector for the time being appointed by the States [Policy & Resources Committee] and includes a person authorised by the Committee to execute and perform the powers and duties of the Inspector under the provisions of this Ordinance,

"this Island" includes the Islands of Herm and Jethou,

[...]

"plant material" includes any plant, whether dead or alive, and any haulm, tuber, bulb, layer, cutting or other part of a plant, whether dead or alive, and whether attached to or separated from the plant of which it forms part,]

"pests" means insects, bacteria, fungi and other vegetable or animal organisms, viruses and all other agents causative of any transmissible disease of agricultural or horticultural crops or trees or bushes, and include pests in any stage of existence.

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

^a Ordres en Conseil Vol. XVI, p. 103.

NOTES

In section 10,

the words in 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 1(a), with effect from 1st May, 2016;²

the words in square brackets in the definition of the expression "the Inspector" in subsection (1) were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 10(a), with effect from 1st May, 2016;³

the words omitted in square brackets in subsection (1) were repealed, and the definition of the expression "plant material" in subsection (1) was substituted, by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, respectively section 1(d)(i) and section 1(d)(ii), with effect from 1st May, 1991.

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.⁴

The functions, rights and liabilities of the Policy Council and of its Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 10(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.⁵

The Magistrate's Court (Guernsey) Law, 1954 has since been repealed by the Magistrate's Court (Guernsey) Law, 2008, section 46(b), with effect from 1st September, 2009, subject to the savings and transitional provisions in section 47 of the 2008 Law.

Extent.

11. This Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

Citation.

12. This Ordinance may be cited as the Control of Diseased Plant Material Ordinance, 1976.

NOTE

The Ordinance was made and came into operation on 27th October, 1976.

REPEALED

SCHEDULE

Sections one, nine and ten

...

NOTE

The Schedule was repealed by the Control of Diseased Plant Material (Amendment) Ordinance, 1991, section 1(e), with effect from 1st May, 1991.

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, 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 10, 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 12(a), with effect from 6th May, 2004.

⁴ The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Committee for Horticulture and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 10, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

⁵ The functions, rights and liabilities of the Policy Council and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Civil Service Board and of its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 12(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.