

# PROJET DE LOI

ENTITLED

## **Loi relative au doryphore (anglicé Colorado Beetle), 1933 \***

[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. IX, p. 318; as amended by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971 (Ordres en Conseil Vol. XXIII, p. 188); the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278). See also the Reform (Guernsey) Law, 1948 (Ordres en Conseil Vol. XIII, p. 288); the Colorado Beetle (Bailiwick of Guernsey) Law, 1956 (Ordres en Conseil Vol. XVII, p. 194); the Colorado Beetle (Transfer of Functions) (Bailiwick of Guernsey) Law, 1957 (Ordres en Conseil Vol. XVII, p. 194); 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 This Law has been repealed by the Plant Health (Implementation) (Guernsey) Ordinance, 2020 (No. \*\* of 2020).

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## **Loi relative au doryphore (anglicé Colorado Beetle), 1933**

### ARRANGEMENT OF ARTICLES

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# PROJET DE LOI

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## **Loi relative au doryphore (anglicé Colorado Beetle), 1933**

**ATTENDU QU'IL** est censé expédient de faire des amendements à la Loi relative au Doryphore (anglicé, "Colorado Beetle"), 1932, notamment en disposant que le devoir de la pulvérisation (anglicé "spraying" des plantes de pommes de terre doit être entrepris par le Comité des États pour l'Agriculture et la Pêche au lieu d'être imposé sur des particuliers.

**ATTENDU QU'IL** est censé plus convenable que les dispositions donnant effet aux amendements voulus soient incorporés dans une nouvelle Loi qui remplacera la dite Loi.

**LES ÉTATS** ont approuvé le Projet de Loi ci-dessous, rédigé en Anglais lequel moyennant la Sanction de Sa Très Excellente Majesté en Conseil aura force de Loi en cette Île, et dans les Îles d'Herm et de Jethou.

### **Repeal of 'Loi relative au Doryphore (anglicé Colorado Beetle), 1932'.**

1. The Law intituled "Loi relative au Doryphore (anglicé 'Colorado Beetle'), 1932", sanctioned by an Order of His Majesty in Council of the 10<sup>th</sup> day of June, 1932, registered on the records of the Island of Guernsey on the 27<sup>th</sup> day of June, 1932, is repealed. Provided that this repeal shall not –

- (a) affect the previous operation of the said Law hereby repealed, or anything duly done or suffered thereunder, or
- (b) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against any of the provisions of the said Law, or
- (c) affect any investigation, legal proceeding, or remedy

in respect of any such penalty, forfeiture or punishment as aforesaid,

and any such investigation, legal proceeding, or remedy may be instituted, continued, or enforced, and any such penalty, forfeiture or punishment may be imposed as if the said repeal had not been enacted.

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**NOTE**

*In accordance with the provisions of the Colorado Beetle (Bailiwick of Guernsey) Law, 1956, section 9, Schedule, with effect from 3rd November, 1956, this Law shall be repealed on such date as the States may by Ordinance appoint. The Colorado Beetle (Bailiwick of Guernsey) Law, 1956 has been repealed, in so far as it relates to the Island of Guernsey by the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, section 6, Schedule, with effect from 4th February, 2020.*

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**Definitions.**

2. In this Law –

The masculine shall include the feminine and the singular the plural unless the context requires otherwise.

**"Beetle"** means the Colorado Beetle (*Leptino-tarsa decemlineata*).

**"Committee"** means the States Committee for Agriculture and Fisheries.

**"Inspector"**, unless otherwise defined, means every person authorised to perform duties of inspection under this Law.

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**NOTE**

*The functions, powers, rights and liabilities of the States of Guernsey Committee for Agriculture and Fisheries arising under or by virtue of the Colorado Beetle (Bailiwick of Guernsey) Law, 1956 were transferred to and vested in the States of Guernsey Committee for Horticulture by the Colorado Beetle (Transfer of Functions) (Bailiwick of Guernsey) Law, 1957, section 1, with effect from 6th April, 1957, subject to the savings in section 2 of the 1957 Law (which 1957 Law has since been repealed, in so*

*far as it relates to the Island of Guernsey, by the Plant Health (Enabling Provisions) (Guernsey) Law, 2014, section 6, Schedule, with effect from 4th February, 2020). The reference in that 1956 Law to the States of Guernsey Committee for Horticulture was then replaced by a reference to the States of Guernsey Commerce and Employment Department by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 10, with effect from 6th May, 2004; and the functions, rights and liabilities of the States of Guernsey Committee for Horticulture and of its President arising under or by virtue of that 1956 Law were transferred to and vested in, respectively, the Commerce and Employment Department and its Minister 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; the reference in that 1956 Law to the Commerce and Employment Department has since been replaced by a reference to the Committee for Economic Development by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016; and the functions, rights and liabilities of the Commerce and Employment Department and of its Minister or Deputy Minister arising under or by virtue of that 1956 Law 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.*

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**States Committee for Agriculture and Fisheries to execute this Law.**

**Appointment of Inspectors, Experts, etc.**

3. (1) The Committee shall execute this Law and secure the observance thereof by all persons whom it may concern and shall be vested generally with all necessary powers in that behalf, and in particular with the powers of issuing general and special orders from time to time and of appointing Inspectors, to whom the Committee may assign duties of inspection generally in the said Islands or in such districts as the Committee shall specify. The Committee may also appoint experts and other persons to assist the Committee in the execution of this Law.

**Spraying of Potato Crops.**

(2) The Committee shall provide itself sufficiently with such implements, apparatus and material as may be required from time to time at the discretion of the Committee for the process of spraying potato plants with arsenate of lead or other material designed to effect the destruction of the Beetle. The Committee shall cause potato plants throughout the said Islands to be sprayed as aforesaid whenever it shall deem it expedient, by operators acting under the authority and direction of the Committee and such operators may for this purpose enter upon all land whether

enclosed or unenclosed where potatoes are growing and shall spray all potato plants found therein and thereon, the whole with the object of preventing the Beetle from establishing itself in the said Islands and, in the event of its introduction therein, of destroying it. Every operator shall be furnished by the Committee with a written authority which he shall produce on demand to an occupant of land upon which he is about to enter or has entered. Resistance offered to an operator who fails to produce his authority when so demanded shall not be deemed to be an infringement of this law.

**Remuneration of Inspectors, Experts, etc.**

(3) The Committee may determine the remuneration to be paid to Inspectors, Experts and other persons performing duties under this Law, and may pay such remuneration and incur such expenses in the provision of implements, apparatus and spraying material and otherwise as may be necessary in the execution of this Law, and the moneys required for such remuneration and expenses shall be provided by the States.

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**NOTE**

*The following Orders have been made under Article 3:*

*Colorado Beetle (No. 1) Order, 1950;  
Colorado Beetle (No. 3) Order, 1950;  
Colorado Beetle (No. 2) Order, 1951.*

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**No charge to be levied for spraying of Potato Crops.**

4. No payment, whether in respect of cost or by way of fee, remuneration or gratuity shall be demanded from or made by or on behalf of the owner or possessor of potato plants in connection with the spraying of his potato plants effected or to be effected by operators under this Law. Provided that nothing in this section shall affect the rights and powers of the Committee to impose liabilities under sub-sections 5, 6 and 7 of section 9 of this Law.

**Resistance to operators or Inspectors in the course of their work.**

5. An operator or Inspector who is resisted or threatened with resistance in the execution of his duties under this Law may call for the protection of a member or members of the States Police, who if so called upon shall have power to

enter upon all premises where such resistance is offered or threatened and to use such force as may be necessary to restrain resisting persons until such operator or Inspector shall have performed his duties. The provisions of this section are without prejudice to any prosecution, penalty or forfeiture which may be incurred under any other provisions of this Law in respect of such resistance.

**Powers of Parish Constables regarding inspection.**

6. The Constables of parishes shall have powers of inspection under the authority of the Committee within their several parishes.

7. The Committee shall furnish the Constables of each parish with particulars obtained concerning the planting of potatoes in their parish. Where the Constables are or become aware of any case of potato planting which does not appear in the particulars so furnished they shall at once report the same to the Committee.

8. Where an Inspector has reason to believe that a crop of potato plants growing within the area covered by his authority has not been reported to the Committee or has not been sprayed in due time or that the spraying of a crop of potatoes within such area has been rendered or has become ineffective he shall inspect the same and for this purpose shall have power to enter upon lands whether enclosed or unenclosed and to interrogate the occupants and other persons. He shall also from time to time as may be requisite or as he may be directed make inspection of all growing crops of potatoes within his area with powers of entry and interrogation as aforesaid in order to ascertain whether there is any evidence of the existence of the Beetle, its eggs, larvae or pupae. An expert authorised by the Committee to make inspection and any member of the Committee so authorised shall have the same powers as an Inspector.

Where, upon any such inspection as aforesaid, the facts or circumstances ascertained are such as to call for some measure or action under this Law, they shall be immediately reported to the Committee.

**Procedure to be followed on discovery of a beetle suspected to be a Colorado Beetle, or of larvae or pupae.**

9. (1) Every person who shall discover a beetle suspected to be a

Colorado Beetle or the larvae or pupae of such beetle at any place in any of the said Islands shall carefully mark the spot of such discovery, and place a specimen of such beetle, larvae, or pupae in a closed box, and deliver it immediately, with a description of the place where it was found, to a Constable of his parish, to an Inspector or to any member of the Committee, or to the [Chief Executive of the States of Guernsey], and such Constable, Inspector or member of Committee, or the [Chief Executive of the States of Guernsey] receiving the same, shall forthwith notify the President of the Committee accordingly.

**Infested areas.**

(2) Upon receipt of such notification the Committee if satisfied that a beetle so delivered is a Colorado Beetle shall order an inspection of the land where the discovery was reported to have been made and if satisfied that the beetle exists there, it shall declare the locality within such limits as the Committee shall define, to be an "infested area".

**Zones of protection.**

(3) At any time after the existence of an infested area has been declared by the Committee, the Committee may further declare a "zone of protection" in relation to that area. The Committee shall define the "zone of protection" which may extend to such radius from the infested area as the Committee shall deem necessary to secure the localisation and extermination of the Beetle.

**Supervision of execution of orders given by the Committee.**

(4) The Committee may take all such steps as it may deem necessary for the localisation, isolation and extermination of the Beetle in respect of any land comprised within an infested area or a zone of protection and in respect of any crops therein or thereon. The powers of the Committee under this sub-section shall include powers to prohibit the movement of crops and produce, boxes, baskets and other material used or capable of use in connection therewith within or from any such area or zone and also powers to order the removal or destruction of such crops, produce, boxes, baskets or other material.

(5) The Committee may employ or appoint any person or persons to ensure and supervise the execution of all orders given by the Committee and the costs incurred in connection with such employment or appointment shall be borne in

whole or in part by the Committee or in whole or in part by the occupant of the land concerned, according as the Committee shall decide.

(6) The Committee may require the occupant of the land to execute all orders given by the Committee at the cost in whole or in part of the Committee or at the cost in whole or in part of the occupant of the land, according as the Committee shall decide.

**Payment of cost of planting within an infested area in following season.**

(7) The Committee may at any time order that the land or any part thereof comprised within an infested area or a zone of protection shall be planted with potatoes in the following season, at the cost in whole or in part, of the Committee, or in whole or in part, of the occupant of the land, according as the Committee shall decide.

**Decision of Committee concerning liability for costs.**

**Right of appeal to Royal Court from decision of Committee.**

(8) In every case where it is incumbent on the Committee to render a decision concerning the liability for costs incurred under sections 5, 6, or 7 of this Article, and the apportionment of such liability, the Committee shall previously consider and record its finding on the question whether and to what extent, if any, the incurring of such costs was attributable to any default, refusal, negligence or lack of care on the part of the occupant of the land or of his servants.

Every decision of the Committee under any of the said sections 5, 6 and 7 shall be subject to an appeal to the Royal Court in Ordinary Session whose judgment thereon shall be final. The right of appeal shall lapse after the third Saturday after the day on which the decision was communicated to the occupant of the land.

**Period of control over infested area.**

(9) The control under this Article which the Committee is authorised to exercise over any land and crops contained in an infested area or zone of protection shall continue for such length of time as, in the opinion of the Committee, may be necessary to ensure the extermination of the Beetle.

**Compensation.**

(10) The Committee shall make recommendations to the States in respect of such cases where, in the opinion of the Committee, compensation should be granted to interested parties to cover losses incurred by reason of a declaration of an infested area or zone of infection.

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**NOTE**

*In Article 9, the words in square brackets in section 1 were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 3, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.<sup>1</sup>*

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**Information concerning land and cultivation.**

10. Every occupant of land shall give to the Committee such information concerning such land and the cultivation thereof as the Committee may by Order or otherwise from time to time require.

**Herm and Jethou deemed part of St. Peter-Port.**

11. For the purpose of this Law the Islands of Herm and Jethou shall be deemed to be part of the parish of Saint Peter Port.

**Destruction of stalks, roots and foliage.**

12. The use of any part of a potato plant consisting of stalk or leaf for packing or other purposes is forbidden. As soon as possible after the separation of plants from the soil by digging or otherwise, all residues of stalk, root and foliage shall be collected and completely burnt.

**Special Constables.**

13. The Committee may present to the Royal Court any person or persons to whom any authority or duty is committed under this Law, to be sworn as special Constables for the purposes of this Law, and such person or persons may be sworn by the Royal Court accordingly.

**Penalty for opposing or interfering with authorised persons.**

14. If any person shall –

- (a) offer any resistance or opposition to the entry on any premises by any person authorised to enter such premises by virtue of this Law or shall resist, oppose or interfere with such authorised person in the performance of any act or duty which he is authorised to perform therein by virtue of this Law, or

**Refusal to obey orders.**

- (b) refuse or neglect to obey any order applicable to him issued by the Committee or by a Constable or by an expert or other person authorised by the Committee to issue such order under the provisions of this Law, or

**Contravention.**

- (c) act in any wise in contravention of this Law or so as to defeat its purpose or abstain from any act therein required to be done by him,

**Penalty.**

he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding [level 2 on the uniform scale].

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**NOTE**

*In Article 14, 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.*

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**Royal Court empowered to pass necessary Ordinances.**

**15.** Orders issued by the Committee other than orders addressed to individuals, associations of persons or incorporated bodies, shall be published in such manner as the Royal Court by Ordinance may prescribe and shall be operative on the day following the completion of such publication or on such later date as may be indicated in such Orders. The Royal Court shall also have power to pass such Ordinances from time to time as it may deem necessary to give effect to and to regulate the execution of this Law and shall also have power by Ordinance to

suspend the operation of this Law or of any provision thereof and to restore such operation.

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**NOTES**

*The following Ordinance has been made under Article 15:*

*Ordonnance relative au Doryphore (anglicé Colorado Beetle).<sup>2</sup>*

*The Law received Royal Sanction on 19th April, 1933 and was registered on the Records of the Island of Guernsey and came into force on 6th May, 1933.*

*In accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 63, with effect from 17th January, 1949, the powers and functions of a legislative nature previously exercised by the Royal Court (save for the making, variation, modification and revocation of Rules of Procedure) were transferred to and vested in the States of Deliberation, and thenceforth any enactment conferring power on the Royal Court to exercise any such powers and functions by way of Ordinance shall be construed as having conferred the like power on the States of Deliberation or on the States Policy & Resources Committee, as the case may be.*

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<sup>1</sup> These words were previously substituted by the States Supervisor and Treasurer of the States (Transfer of Functions) Law, 1971, section 4, with effect from 1st April, 1972, subject to the savings in section 2 of the 1971 Law.

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<sup>2</sup> Recueil d'Ordonnances Tome VIII, p. 289; the Ordinance was made on 6th May, 1933 and, in accordance with the provisions of the Reform (Guernsey) Law, 1948, Article 70(3), with effect from 1st January, 1950, became a Permanent Ordinance of the States.

REPEALED