

ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

The Safety of Employees (Growing Properties) Ordinance, 1954 *

[CONSOLIDATED TEXT]

NOTE

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* Recueil d'Ordonnances Tome XI, p. 55; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Poisonous Substances Ordinance, 1962 (Recueil d'Ordonnances Tome XIII, p. 140); the States Civil Service Board (Implementation) Ordinance, 1964 (Recueil d'Ordonnances Tome XIV, p. 4); the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 162); the Transfer of Functions Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 328); the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139); 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). See also the Education (Guernsey) Law, 1970 (Ordres en Conseil Vol. XXII, p. 318); the Safety of Employees (First-Aid and Welfare) Ordinance, 1954 (Recueil d'Ordonnances Tome XI, p. 49); the Safety of Employees (Woodworking Machinery) Ordinance, 1959 (Recueil d'Ordonnances Tome XII, p. 202); the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 (*supra*); the Safety of Employees (Growing Properties) Regulations, 1955 (G.S.I. No. 1 of 1955); the Health and Safety (Fees) Order, 2015 (G.S.I. No. 2 of 2015).

ORDINANCE OF THE STATES OF DELIBERATION

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The Safety of Employees (Growing Properties) Ordinance, 1954

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(Made on 4th August, 1954.)

The Safety of Employees (Growing Properties) Ordinance, 1954

THE STATES, in exercise of the powers conferred on them by the Health, Safety and Welfare of Employees Law, 1950, and of all other powers thereunto them enabling, and in pursuance of their Resolution of the first day of October, nineteen hundred and fifty-two, hereby order: –

PART I

Interpretation

Interpretation.

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 of Guernsey [Committee for Employment & Social Security]] or such other committee as the States may by Resolution appoint,]

"**contravention**" includes, in relation to any provision, a failure to comply with that provision and the expression "**contravene**" shall be construed accordingly,

"**driving-belt**" includes any driving strap or rope,

"**employer**" means the employer of a protected worker,

"**face-shield**" means a shield covering the whole of the forehead and face, so designed as to protect the forehead and face from being splashed by a poisonous substance,

"growing property" means any place, having one or more greenhouses erected thereon, at which a person or persons is or are employed in manual labour in any process for or incidental to the growing by way of trade in that greenhouse or in any of those greenhouses of fruit, vegetables, flowers, roots, ferns or any vegetable product whatsoever,

"hood" means a hat or other covering to the head, so designed as to protect the forehead and back and sides of the neck,

"inspector" means a person appointed by [the States [Policy & Resources Committee]] to execute and perform the powers and duties of an inspector under this Ordinance,

"machinery" includes any driving-belt,

"mackintosh" means a waterproof coat covering the whole of the body except the head, the hands and below the knees,

"maintained" means maintained in an efficient state, in efficient working order and in good repair,

"overall" means an overall with fastenings at the neck and wrists covering all clothing other than headgear, rubber boots and such parts of rubber gloves as extend below the wrists,

"poisonous substance" has the meaning assigned to it by section fifteen of this Ordinance,

"prescribed" means prescribed by [the Committee],

"prime mover" means any engine, motor or other appliance which provides mechanical energy derived from steam, water, wind, electricity, the combustion of fuel or other source,

"protected worker" means a person employed under a contract of service or apprenticeship at a growing property –

- (a) in connection with the use at the growing property of a poisonous substance, or
- (b) at which a poisonous substance has been or is being used,

"protective clothing" includes protective equipment, respirators, face-shields, hoods, mackintoshes, overalls, rubber aprons, rubber boots, rubber coats, rubber gloves, and sou'westers,

"regulated operation" has the meaning assigned to it by section eighteen of this Ordinance,

"respirator" means a filtering apparatus covering the whole of the face so designed as to ensure the person wearing it of a supply of air adequate for respiration and to eliminate so far as practicable the risk of pollution by a poisonous substance of the air which is breathed,

"rubber" includes synthetic rubber, oilskin and other substances or materials impermeable in the circumstances in which they are used to liquids and gases,

"rubber apron" means a rubber apron covering the front and sides of the body from immediately below the shoulders to at least three inches below the knees,

"rubber boots" means rubber boots extending from the feet upwards to at least immediately below the knees,

"rubber coat" means a rubber coat covering the whole of the body except the head, the hands and below the knees,

"rubber gloves" means rubber gloves or gauntlets completely covering the hands, and fitting sufficiently closely around the wrists and forearms to be covered by the sleeves of a mackintosh, an overall or rubber

coat, when worn together with any of such articles of protective clothing,

"sou'wester" means a rubber hat or other covering which completely covers the head (other than the face), and is so shaped as to protect the back of the neck from falling spray,

"spraying apparatus" includes any apparatus or device through or by means of which a poisonous substance is discharged or is permitted to escape, after being extracted from the tank or container in which it is for the time being stored,

"transmission machinery" means every shaft, wheel, drum, pulley, system of fast and loose pulleys, coupling, clutch, driving-belt or other device by which the motion of a prime mover is transmitted to or received by any machine or appliance,

"wetter" means a chemical agent which when added to a poisonous substance promotes on the surface of a solid (including rubber) the formation of a continuous liquid film,

"woman" means a woman who has attained the age of eighteen years,

"young person" means a person who has attained the age of fourteen years and has not attained the age of eighteen years.

NOTES

In section 1,

the words in the first pair of square brackets were substituted by the Transfer of Functions Ordinance, 1991, section 4, Schedule 3, paragraph 7, with effect from 31st July, 1991;

the words in the second pair of square brackets within the definition of the expression "the Committee" were substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 17, with effect from 31st October, 1996;

*the words, first, "the Committee" and, second, "Committee for Employment & Social Security" in square brackets in the definition of the expression "the Committee" in subsection (1) and, third, the words "the Committee" in square brackets wherever else occurring, were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 4, section 2, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1 and section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016;*¹

the words in square brackets in the definition of the expression "inspector" were substituted by the States Civil Service Board (Implementation) Ordinance, 1964, section 1, Schedule, with effect from 29th January, 1964;

*the words in square brackets within the square brackets in the definition of the expression "inspector" 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.*²

*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 Employment & Social Security and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(b), Schedule 2, Part 1, paragraph 1, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.*³

*The functions, rights and liabilities of the Policy Council and of its Minister or Deputy 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.*⁴

The following Regulations have been made under this Ordinance:

Safety of Employees (Growing Properties) Regulations, 1955.

In accordance with the provisions of the Education (Guernsey) Law, 1970, section 46, with effect from 28th October, 1970, for the purposes of this Ordinance relating to the prohibition or regulation of the employment of children or young persons, any person who is not for the purposes of the 1970 Law over compulsory school age shall be deemed to be a child within the meaning of this Ordinance.

In accordance with the provisions of the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 35(1), Schedule 4, with effect from 1st December, 1987, this enactment is one of those to be regarded as "relevant statutory provisions" for the purposes of the 1987 Ordinance.

In accordance with the provisions of the Health and Safety (Fees) Order, 2015, the fees payable for the provision of the services or documents therein referred to under or for the purposes of this Ordinance and any subordinate legislation made hereunder are as contained in article 5 thereof.

PART II

Safety (general provisions)

Prime movers.

2. (1) At every growing property every flywheel directly connected to any prime mover and every moving part of any prime mover, except such prime movers as are mentioned in subsection (2) of this section, shall be securely fenced, whether the flywheel or prime mover is situated in an engine house or not.

(2) At every growing property every part of electric generators, motors and rotary convertors, and every flywheel directly connected thereto, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working at the growing property as it would be if securely fenced.

Transmission machinery.

3. (1) At every growing property every part of the transmission machinery shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working at the growing property as it would be if securely fenced.

(2) Efficient devices or appliances shall be provided and maintained at every growing property in every room or place where work is carried on by which the power can promptly be cut off from the transmission machinery in that room or place.

(3) Any driving-belt when not in use at any growing property shall not be allowed to rest or ride upon a revolving shaft which forms part of the transmission machinery.

(4) At every growing property suitable striking gear or other efficient mechanical appliances shall be provided and maintained and used to move driving-belts to and from fast and loose pulleys which form part of the transmission machinery, and any such gear or appliances shall be so constructed, placed and

maintained as to prevent the driving-belt from creeping back on to the fast pulley.

(5) Where [the Committee] is satisfied that owing to special circumstances the fulfilment of any of the requirements of the last three foregoing subsections is unnecessary or impracticable, it may by certificate direct that the requirements shall not apply in those circumstances.

NOTE

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

Machinery other than prime movers and transmission machinery.

4. At every growing property every dangerous part of any machinery, other than prime movers and transmission machinery, shall be securely fenced unless it is in such a position or of such construction as to be as safe to every person employed or working at the growing property as it would be if securely fenced:

PROVIDED that, in so far as the safety of a dangerous part of any machinery cannot by reason of the nature of the operation be secured by means of a fixed guard, the requirements of this section shall be deemed to have been complied with if a device is provided which automatically prevents the operator from coming into contact with that part.

NOTE

In accordance with the provisions of the Safety of Employees (Woodworking Machinery) Ordinance, 1959, section 17(c), with effect from 1st December, 1959, any obligation as to any fencing of any part of any woodworking machine shall be as imposed under the provisions of that Ordinance and, accordingly, any such obligation shall be in substitution for any obligation as to fencing in respect of that part of that machine imposed under the provisions of this section.

Construction and maintenance of fencing.

5. All fencing or other safeguards provided in pursuance of the provisions of section two, section three and section four of this Ordinance shall be

of substantial construction, and constantly maintained and kept in position while the parts required to be fenced or safeguarded are in motion or in use, except when any such parts are necessarily exposed for examination and for any lubrication or adjustment shown by such examination to be immediately necessary.

Air receivers.

6. (1) Every air receiver at any growing property shall –
 - (a) have marked upon it so as to be plainly visible the safe working pressure, and
 - (b) in the case of a receiver connected with an air compressing plant either be so constructed as to withstand with safety the maximum pressure which can be obtained in the compressor, or be fitted with a suitable reducing valve or other suitable appliance to prevent the safe working pressure of the receiver being exceeded, and
 - (c) be fitted with a suitable safety valve so adjusted as to permit the air to escape as soon as the safe working pressure is exceeded, and
 - (d) be fitted with a correct pressure gauge indicating the pressure in the receiver in pounds per square inch, and
 - (e) be fitted with a suitable appliance for draining the receiver, and
 - (f) be provided with a suitable manhole, hand-hole or other means which will allow the interior to be thoroughly cleaned, and
 - (g) in a case where more than one receiver is in use at the growing property, bear a distinguishing mark which shall be easily visible.

(2) For the purpose of the provisions of the foregoing subsection relating to safety valves and pressure gauges, any set of air receivers supplied with air through a single pipe may be treated as one receiver:

PROVIDED that, in a case where a suitable reducing valve or other suitable appliance to prevent the safe working pressure being exceeded is required to be fitted, this subsection shall not apply unless the valve or appliance is fitted on the said single pipe.

(3) Every air receiver at any growing property and the fittings of every such air receiver shall be of sound construction and properly maintained.

(4) Every air receiver at any growing property shall be thoroughly cleaned and examined at least once in every period of twenty-six months:

PROVIDED that in the case of a receiver of solid drawn construction –

- (a) the person making any such examination may specify in writing a period exceeding twenty-six months but not exceeding four years within which the next examination is to be made, and
- (b) if it is so constructed that the internal surface cannot be thoroughly examined, a suitable hydraulic test of the receiver shall be carried out in lieu of internal examination.

(5) Every examination and test referred to in the last preceding subsection shall be carried out by a competent person and a report in the prescribed form and containing the prescribed particulars (including particulars of the safe working pressure) shall be made by him of the result of every such examination and test.

(6) Every report made in pursuance of the provisions of

subsection (5) of this section shall be preserved for at least four years after the date of the making thereof.

- (7) In this section the expression "**air receiver**" means –
- (a) any vessel (other than a pipe or coil, or an accessory, fitting or part of a compressor) for containing compressed air and connected with an air compressing plant,
 - (b) any fixed vessel for containing compressed air or compressed exhaust gases and used for the purpose of starting an internal combustion engine, or
 - (c) any fixed or portable vessel (not being part of a spraying pistol) used for the purposes of spraying any substance by means of compressed air, or
 - (d) any vessel in which oil is stored and from which it is forced by compressed air:

PROVIDED that the provisions of paragraph (e) of subsection (1) of this section shall not apply to any such vessel as is mentioned in paragraph (c) or paragraph (d) of this subsection.

(8) [The Committee] may by certificate except from any of the foregoing provisions of this section any class or type of air receiver to which it is satisfied that such provision cannot reasonably be applied, and any such exception may be unqualified or may be subject to such conditions as may be specified in the certificate.

NOTES

In section 6, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 4, with effect from 1st May, 2016.

In accordance with the provisions of the Safety of Employees (Growing Properties) Regulations, 1955, regulation 2(a) and regulation 2(b), with effect from 3rd January, 1955, the prescribed forms of, first, the report and, second, the supplementary report of an examination of an air receiver for the purposes of subsection (5) of this section shall be, respectively, Form 59 and Form 60; and the particulars to be contained in the said Forms shall be as set out thereon.

Cleaning of grading machines.

7. Any machine at any growing property used for the grading of fruit or vegetables shall not be cleaned while in motion or in use.

Cleaning of machinery by women and young persons.

8. A woman or young person employed at any growing property shall not clean any part of a prime mover or of any transmission machinery while the prime mover or transmission machinery is in motion, and shall not clean any part of any machine if the cleaning thereof would expose the woman or young person to risk of injury from any moving part either of that machine or of any adjacent machinery.

Opening of metal drums.

9. (1) A person employed at a growing property shall not open a metal drum containing any substance except by means of a suitable key or lever opener which the occupier shall supply and shall make available when required for the purpose.

(2) In this section the expression "**any substance**" means any substance to be used in any process for or incidental to the growing by way of trade in any greenhouse of fruit, vegetables, flowers, roots, ferns or any vegetable product whatsoever.

Fencing of boiler pits.

10. Where at any growing property any person employed thereat has to cross over or pass immediately near the edge of a boiler pit when about to enter or upon leaving a greenhouse, adequate fencing shall be provided and maintained as respects the means of crossing or that edge, as the case may be, to prevent his falling into the boiler pit.

Ladders in boiler pits.

11. Every ladder used in a boiler pit at any growing property shall be of good construction, sound material, adequate strength and free from patent defects, and shall be properly maintained.

Work on roofs of greenhouses.

12. (1) Subject to the provisions of subsection (2) of this section, where at any growing property any person employed thereat has to carry out any operation whatsoever on the sloping surface of the roof of any greenhouse suitable glazing boards of adequate dimensions shall be provided and used.

(2) Where any such person has to carry out any operation as aforesaid and such operation cannot with safety be carried out by means of glazing boards suitable duckboards of adequate dimensions shall be provided and used.

(3) Every such glazing board and every such duckboard shall be of good construction, sound material and adequate strength for the purpose for which it is used.

(4) A board or plank which constitutes or forms part of a glazing board shall not project beyond its end support to a distance exceeding four times the thickness of the board or plank unless it is effectively secured to prevent tipping, or to a distance which, having regard to the thickness and strength of the board or plank, renders the projecting part of the board or plank an unsafe support for any weight liable to be upon it.

Top pegs.

13. Where on the commencement of this Ordinance any roof of any greenhouse at any growing property is provided with top pegs, those top pegs shall be securely fixed and constantly maintained.

New greenhouses to be provided with top pegs.

14. (1) The roof of every greenhouse erected at any growing property after the commencement of this Ordinance shall at all times be provided with an adequate system of top pegs, to support glazing boards, fixed in the rafters of the greenhouse in parallel rows and at such regular intervals as may be necessary to

ensure the safety of any person employed in carrying out any painting or glazing on any part of the roof of the greenhouse.

(2) The top pegs provided in pursuance of the provisions of subsection (1) of this section shall be securely fixed and constantly maintained.

(3) In this section the expression "**greenhouse**" means a greenhouse the framework of which is constructed wholly or mainly of wood.

PART III

Poisonous substances

Poisonous substances.

15. ...

NOTE

Part III, and section 15 thereof, were repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Posting up of notices.

16. ...

NOTE

Section 16 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Poisonous substances not in sealed containers.

17. ...

NOTE

Section 17 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Regulated operations.

18. ...

NOTE

Section 18 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Protected workers carrying out regulated operations to wear protective clothing.

19. ...

NOTE

Section 19 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Repair of spraying apparatus.

20. ...

NOTE

Section 20 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Provision and maintenance of protective clothing.

21. ...

NOTE

Section 21 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Restriction on hours of work.

22. ...

NOTE

Section 22 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Instruction and supervision of protected workers.

23. ...

NOTE

Section 23 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Prohibition of employment of persons under eighteen years.

24. ...

NOTE

Section 24 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Miscellaneous obligations relating to employers.

25. ...

NOTE

Section 25 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Miscellaneous prohibitions and obligations relating to protected workers.

26. ...

NOTE

Section 26 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Matters requiring notification to the Authority.

27. ...

NOTE

Section 27 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

Keeping of a register.

28. ...

NOTE

Section 28 was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

PART IV

Notification and investigation of accidents

Notification of accidents.

29. ...

NOTE

Part IV, and section 29 thereof, were repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st December, 1987.

Investigation of accidents.

30. ...

NOTE

Section 30 was repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st

December, 1987.

PART V

General

Duties of persons employed.

31. (1) A person employed at any growing property shall not wilfully interfere with or misuse any means, appliance, convenience or other thing provided in pursuance of this Ordinance for securing the health, safety or welfare of the persons employed at the growing property, and where any means or appliance for securing health or safety is provided for the use of any such person under this Ordinance, he shall use the means or appliance.

(2) A person employed at any growing property shall not wilfully and without reasonable cause do anything likely to –

(a) endanger, or

(b) ...

himself or others.

NOTES

In section 31, paragraph (b) of subsection (2) was repealed by the Poisonous Substances Ordinance, 1962, section 46, with effect from 1st October, 1962.

In accordance with the provisions of the Safety of Employees (First-Aid and Welfare) Ordinance, 1954, section 5(3), with effect from 1st October, 1954, subsection (1) of this Ordinance shall have effect as if any reference therein to this Ordinance included a reference to that Ordinance.

Powers of inspectors.

32. ...

NOTE

Section 32 was repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st December, 1987.

Certificate of appointment of inspector.

33. ...

NOTE

Section 33 was repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st December, 1987.

PART VI

Offences, penalties and legal proceedings

Offences.

34. (1) In the event of any contravention at or in connection with or in relation to a growing property of any of the provisions of this Ordinance or of any order made thereunder, the occupier of the growing property shall, subject as hereafter in this Ordinance provided, be guilty of an offence.

(2) In the event of a contravention by an employed person of the provisions of section thirty-one of this Ordinance (which relates to duties of persons employed) or of a contravention by any person of any order made under this Ordinance which expressly imposes any duty upon him, that person shall be guilty of an offence and the occupier shall not be guilty of an offence by reason only of the contravention of the provisions of the said section thirty-one or the contravention of the provision imposing the said duty, as the case may be, unless it is proved that he failed to take all reasonable steps to prevent the contravention, but this subsection shall not be taken as affecting any liability of the occupier in respect of the same matters by virtue of some provision other than the provisions or provision aforesaid.

(3) If the occupier of a growing property avails himself of any special exception allowed by or under this Ordinance and fails to comply with any of the conditions attached to the exception, he shall be deemed to have contravened the provisions of this Ordinance.

(4) If any persons are employed at a growing property otherwise than in accordance with the provisions of this Ordinance or of any order made thereunder there shall be deemed to be a separate contravention in respect of each person so employed.

(5) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, manager, secretary or other officer of the body corporate he, as well as the body corporate, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

NOTE

In accordance with the provisions of the Safety of Employees (First-Aid and Welfare) Ordinance, 1954, section 6(3), with effect from 1st October, 1954, the provisions of this Part of this Ordinance shall apply for the enforcement of that Ordinance and otherwise in relation thereto as if the provisions, other than section 5, section 6 and section 7, of that Ordinance were enacted in this Ordinance.

Fines for offences for which no express penalty provided.

35. Subject as hereafter in this Ordinance provided, any person guilty of an offence under this Ordinance for which no express penalty is provided by this Ordinance shall be liable on conviction to a fine not exceeding [level 1 on the uniform scale], and if the contravention in respect of which he was so convicted is continued after the conviction he shall, subject to the provisions of section thirty-six of this Ordinance, be guilty of a further offence and liable on conviction in respect thereof to a fine not exceeding five pounds for each day on which the contravention was so continued.

NOTE

In section 35, 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 Court to order cause of contravention to be remedied.

36. Where the occupier of a growing property is convicted of an offence under this Ordinance, the Court may, in addition to or instead of inflicting a fine, order him, within the time specified in the order, to take such steps as may be so specified for remedying the matters in respect of which the contravention occurred, and may, on application, enlarge the time so specified, and where such an order is made, the occupier shall not be liable under this Ordinance in respect of the continuation of the contravention during the time allowed by the Court, but if, after the expiration of that time as originally specified or enlarged by subsequent order, the order is not complied with, the occupier shall be liable on conviction to a fine not exceeding five pounds for each day on which the non-compliance continues.

Forgery of certificates, false entries and false declarations.

37. ...

NOTE

Section 37 was repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st December, 1987.

Penalties on persons actually committing offence for which occupier is liable.

38. Where an act or default for which an occupier is liable under this Ordinance is in fact the act or default of some agent, servant, worker or other person, that agent, servant, worker or other person shall be guilty of an offence and liable to the like fine as if he were the occupier.

Exemption of occupier from liability.

39. Where the occupier of a growing property who is charged with an offence under this Ordinance proves to the satisfaction of the Court that he has used all due diligence to enforce the execution of this Ordinance and of any relevant order made thereunder and that the offence was due to the act or default of some

other person who committed it without his consent, connivance or wilful default, he shall be acquitted of the offence.

Proceedings against persons other than occupiers.

40. Where, under this Ordinance, any person is substituted for the occupier with respect to any provisions of this Ordinance, any summons, notice or proceedings, which for the purpose of any of those provisions is by or under this Ordinance required or authorised to be served on or taken in relation to the occupier, is hereby required or authorised, as the case may be, to be served on or taken in relation to that person.

Employer liable in certain cases instead of occupier.

41. (1) Where at any growing property the employer of any person employed thereat in or about or in connection with the opening of metal drums or work on the roofs of greenhouses, as the case may be, is some person other than the occupier of the growing property, the employer shall, so far as respects any obligation imposed under this Ordinance in relation to the opening of metal drums or to work on roofs of greenhouses by that employed person, as the case may be, and so far as respects any offence under this Ordinance committed in relation to that employed person, be deemed to be the occupier of the growing property.

(2) Where at any growing property the employer of any protected person employed thereat is some person other than the occupier of the growing property, the employer shall, so far as respects any offence under this Ordinance committed in relation to the protected worker at the growing property, be deemed to be the occupier of the growing property.

Owner of machine liable in certain cases instead of occupier.

42. Where at any growing property the owner or hirer of any prime mover, any transmission machinery, any machinery other than a prime mover or transmission machinery or any air receiver is some person other than the occupier of the growing property, the owner or hirer shall, so far as respects any obligation imposed under this Ordinance in relation to that prime mover, transmission machinery, machinery as aforesaid or air receiver, as the case may be, and so far as respects any offence under this Ordinance committed in relation to a person who is employed in or about or in connection with that prime mover, transmission

machinery, machinery as aforesaid or air receiver, as the case may be, and is in the employment or pay of the owner or hirer, be deemed to be the occupier of the growing property.

Prosecution of offences.

43. (1) In any proceedings under this Ordinance it shall be sufficient in the charge or summons to allege that the growing property is a growing property within the meaning of this Ordinance and to state the name of the ostensible occupier of the growing property, or where the occupier is a firm, the title of the firm.

(2) Where any offence is committed under this Ordinance by reason of a failure to make an examination, enter a report, or do any other thing, at or within a time specified by or under this Ordinance, the offence shall be deemed to continue until the examination is made, or the report entered, or the other thing done, as the case may be.

Special provisions as to evidence.

44. If a person is found at any growing property at any time at which work is going on or any machinery is in motion, except during the intervals for meals or rest, he shall, until the contrary is proved, be deemed for the purposes of this Ordinance to have been then employed at the growing property:

PROVIDED that this subsection shall not apply to a growing property at which the only persons employed are members of the same family dwelling thereat.

Service and sending of documents, etc.

45. ...

NOTE

Section 45 was repealed by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 34, Schedule 3, with effect from 1st December, 1987.

PART VII

Application and commencement

Application.

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

Commencement.

47. This Ordinance shall come into force on the first day of January, 1955.

¹ The words "Committee for Employment & Social Security" were previously substituted by the Transfer of Functions Ordinance, 1991, section 4, Schedule 3, paragraph 7, with effect from 31st July, 1991; the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 17, with effect from 31st October, 1996; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, 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 12(a), with effect from 6th May, 2004.

³ 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 them 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; the functions of the Board of Industry were previously transferred to it from the Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 1, Schedule 1, paragraph 18, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance; the functions of the Board of Employment, Industry and Commerce arising under or by virtue of this

Ordinance were previously transferred to it from the States Labour and Welfare Committee by the Transfer of Functions Ordinance, 1991, section 2, Schedule 2, paragraph 7, with effect from 31st July, 1991, subject to the savings and transitional provisions in section 3 of the 1991 Ordinance.

⁴ 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 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.