

STATES OF JERSEY



DRAFT POISONS (JERSEY) LAW 201-

Lodged au Greffe on 11th August 2011
by the Minister for Health and Social Services

STATES GREFFE



Jersey

DRAFT POISONS (JERSEY) LAW 201-

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services the provisions of the Draft Poisons (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Deputy A.E. Pryke of Trinity**

REPORT

1. Background

The sale and supply of substances designated as poisons is currently regulated by the Poisons (Jersey) Law 1952 and its subordinate Orders. This Law was originally the Pharmacy, Poisons and Medicines (Jersey) Law 1952; however, with the introduction of the Medicines (Jersey) Law 1995 and the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010, large parts of the original Law were repealed, leaving only those provisions which related to the sale or supply of non-medicinal poisons. These provisions have not been amended since 1994 and are therefore in need of revision and updating.

2. Current provisions under the 1952 Law

2.1 Poisons List

The surviving part of the 1952 Law provides for the regulation of sales of non-medicinal poisons which are listed in the Poisons List (Jersey) Order 1986. This list is divided into 2 parts. Part 1 of the List consists of poisons which may only be sold from a registered pharmacy, and Part 2 contains those which may be sold in premises which are registered as “listed sellers” of poisons. Those poisons specified in the List consist largely of substances used as pesticides in agriculture or horticulture.

In practice, a derogation is exercised, as in the U.K., to allow the sale of Part 1 poisons by registered agricultural merchants when they are sold to persons for use in their trade or business (e.g. farmers, growers, pest control services).

2.2 Other conditions attached to the sale of poisons

The current 1952 Law requires the purchaser of certain poisons to be known to the seller – or if they are not known, to provide a certificate “certifying that they are a person to whom the poison may properly be sold”. This certificate may be signed by any householder, though if the householder is not known to the seller it also has to be endorsed by the relevant Parish Constable or Centenier.

Other poisons, such as aluminium phosphide for killing moles, may only be sold to persons who have been certificated, following training in the use of the poison, by Officers of the Environment Department.

2.3 Records

The 1952 Law also requires that records of sales are kept in relation to specified substances in the form of a poisons register.

2.4 Exemptions

The sale of a poison by way of wholesale dealing, for export, for scientific education or research, or to a States Department is generally exempted from some provisions of the Law.

2.5 Other provisions

The 1952 Law empowers the Minister to make Orders on a number of matters, including the storage, transport and labelling of poisons, the preservation of records, extending or relaxing provisions with respect to classes of poisons or particular poisons, and to appoint pharmacists with powers of inspection and investigation. It also provides for consultation with pharmacists on legislative proposals (the original 1952 Law being largely at that time concerned with the regulation of medicines). Many of these provisions are contained in the Poisons (General Provisions) (Jersey) Order 1968.

3. Proposals for the new draft legislation

- 3.1 The distinction between Part 1 and Part 2 poisons is retained, with the Poisons List being declared by the Minister rather than prescribed by Order.
- 3.2 The sale of Part 1 poisons is restricted to registered pharmacies and suppliers authorised by the Minister (who will include certified agricultural merchants) rather than pharmacies only. This is in recognition of the fact that certified agricultural merchants have particular expertise in the use of substances currently included in Part 1 of the Poisons List.
- 3.3 The sale of Part 2 poisons is restricted to registered pharmacies and other persons authorised by the Minister. The person must be a fit and proper person, and his or her premises must be suitable for storing poisons.
- 3.4 “Certification” in its present form, for the purchase of a poison, should cease to be required (it has not been used for several years). Instead, a seller will be required to establish that the purchaser of the poison has a proper purpose for purchasing the poison, is aware of the dangers of the poison and will use and store it responsibly.
- 3.5 Records will need to be kept by the seller of particular poisons, where this is specified by the Minister in the Poisons List.
- 3.6 The exemptions for sales by way of wholesale dealing, for export, to States Departments and for education or research purposes are retained.
- 3.7 Order-making powers include provisions for the Minister to make Orders regulating, restricting or prohibiting the sale or supply of poisons; about the storage, transport and labelling of poisons; specifying the containers in which poisons may be sold or supplied, or adding substances to poisons to enable them to be identified; and specifying how records of sales should be kept. These matters will be incorporated into a revised General Provisions Order.
- 3.8 The Minister will be required, as he or she thinks appropriate, to take specialist advice regarding the discharge of his or her functions under the Law. This is no longer restricted to pharmacists.
- 3.9 The Minister may appoint pharmacists to be inspectors for the purposes of the Law.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of this Draft Law.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 8th August 2011 the Minister for Health and Social Services made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Health and Social Services the provisions of the Draft Poisons (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

This Law provides a scheme for regulating the sale of poisons. It replaces the Pharmacy and Poisons (Jersey) Law 1952 (prospectively renamed the Poisons (Jersey) Law 1952 by the Pharmacists and Pharmacy Technicians (Registration) (Jersey) Law 2010), insofar as that Law deals with poisons.

Part 1 – Introductory provisions

Article 1 sets out the meaning of various terms specified in the Law.

Article 2 establishes that there shall be a Poisons List consisting of 2 Parts declared by the Minister. The Article specifies what the Minister shall consider when deciding in which Part of the List a poison ought to be placed. *Article 3* applies to poisons included in Part 1. *Article 4* applies to poisons included in Part 2.

Part 2 – Persons who may sell poisons

Article 3 states that poisons listed in Part 1 of the List may only be sold –

- (a) at registered pharmacies, if they are sold by or under the supervision of pharmacists; or
- (b) at agrochemical supply premises specified in an authorization under *Article 9*, if they are sold under the authorization, and by or under the supervision, of a certified agrochemicals supplier.

The seller of a poison must be sure that the purchaser of the poison has a proper purpose for purchasing the poison, is aware of the dangers of the poison and will use and store it responsibly.

Article 4 states that poisons listed in Part 2 of the List may only be sold at registered pharmacies by or under the supervision of pharmacists or by or under the supervision of a person authorized under *Article 6*.

Article 5 exempts from the provisions of *Articles 3* and *4* the sale of a poison by wholesale, or for export, or to tradespeople or businesses for use in their trade or business, or to a person acting on behalf of the UK or Jersey government or a Parish or for use in research.

Part 3 – Authorizations to sell poisons

Article 6 sets out the process of obtaining from the Minister an authorization to sell poisons specified in Part 2 of the Poisons List. A person must be a fit and proper person, and his or her premises must be suitable for storing poisons, for the person to be authorized under this Article.

Article 7 enables the revocation of an authorization under *Article 6* in relation to premises if the premises are no longer suitable for the storage of poisons. The Minister must first give the authorized person notice of what ought to be done to bring the premises up to the appropriate standard. If the person does not perform these actions, an opportunity is given to the person to argue why, nonetheless, the authorization of the premises ought to be maintained. If the Minister is not satisfied as to the standard of the premises or by the reasons given, the authorization may be cancelled.

Article 8 enables a court that convicts a person of an offence to cancel the person's authorization under Article 6, and to stop the person being authorized within a particular period under that Article or Article 9, if the offence indicates the person isn't a suitable person to be authorized to sell a poison.

Article 9 sets out the process for obtaining from the Minister an authorization to supply Part 1 poisons as an agrochemicals supplier. A person must be a certified agrochemicals supplier to be authorized under the Law.

Article 10 enables the revocation of an authorization granted to an agrochemicals supplier if the person is no longer a certified agrochemicals supplier. The Minister must first give the authorized person notice and an opportunity to argue why the authorization ought to continue. If the Minister is not satisfied by the reasons given, then he or she may cancel the authorization.

If premises used for the supply of poisons are not suitable, it is expected that the person's certification will be cancelled under the British Agrochemical Standards Inspection Scheme or a scheme prescribed by Order. The Minister may then cancel the person's authorization under this Law.

Article 11 enables a court that convicts a person of an offence to cancel the person's authorization under Article 9, and to stop the person being re-registered within a particular period, if the offence indicates the person isn't a suitable person to be authorized under that Article.

Article 12 allows a person to appeal against the Minister's refusal to authorize the person under Article 6 or 9 or against revocation by the Minister of the person's authorization.

Part 4 – Other offences

Article 13 specifies that the seller of a poison in the Poisons List that is specified for the purposes of this Article must also keep a record, in a book kept for the purpose, of the details of the sale.

Article 14 prohibits the sale of poisons otherwise than in accordance with any requirements as to their labelling, or the containers in which they are sold, that the Minister prescribes by Order.

Article 15 prohibits poisons being sold by way of vending machines.

Article 16 prohibits a person from claiming to be authorized to sell a poison unless he or she is, in fact, authorized to sell it.

Article 17 prohibits persons from delaying, hindering or obstructing inspectors.

Part 5 – Administrative matters

Article 18 requires the Minister to take specialist advice regarding the discharge of his or her functions under this Law.

Article 19 permits the Minister to make Orders –

- (a) regulating, restricting or prohibiting the sale or supply of poisons;
- (b) about the storage, transport and labelling of poisons;
- (c) specifying the containers in which poisons may be sold or supplied or adding substances to poisons to enable them to be identified;

- (d) specifying how log books of sales under Article 13 are to be kept; and
- (e) prescribing the matters that the Law permits the Minister to prescribe.

Article 20 enables the Minister to appoint pharmacists to be inspectors. Inspectors may enter registered pharmacies, agrochemicals supply businesses, or a place at which they have reasonable cause to suspect that a breach of the Law or an Order has been committed. No power to enter residential premises is given. Inspectors must identify themselves before entering premises if asked by an occupier of the premises to do so. Once on the premises, inspectors may search, open containers, and take samples for analysis.

Part 6 – Concluding provisions

Article 21 enables evidence of an analysis of a substance made on behalf of the Minister to be admitted into evidence and specifies that a person may call the person who made the analysis to court to give evidence about it.

Article 22 provides that any notice to be served under the Law may be served by post.

Article 23 repeals and amends enactments consequentially upon the commencement of this Law.

Article 24 enables the Minister, by Order, to make transitional provision for the commencement of the Law and the repeal or amendment of any enactment under Article 23.

Article 25 states the name of the Law and that the Law shall come into force on a day or days to be appointed by the States.

Note: Where the Law prescribes a penalty by way of a fine of a specified level “on the standard scale”, this is a fine not exceeding the amount for that level under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993. The standard scale of fines is –

Level 1	£50
Level 2	£500
Level 3	£2,000
Level 4	£5,000



Jersey

DRAFT POISONS (JERSEY) LAW 201-

Arrangement

Article

PART 1		13
<hr/>		
	INTRODUCTORY MATERIAL	13
1	Interpretation	13
2	Poisons List	14
PART 2		15
<hr/>		
	RESTRICTIONS ON PERSONS WHO MAY SELL POISONS	15
3	Sale of poisons specified in Part 1 of Poisons List.....	15
4	Sale of poisons specified in Part 2 of Poisons List.....	15
5	Wholesalers and use for governmental or research purposes exempted from restriction on sale of poisons	16
PART 3		16
<hr/>		
	AUTHORIZATIONS TO SELL POISONS	16
6	Authorization of persons to sell poisons specified in Part 2 of Poisons List.....	16
7	Minister may revoke authorization where premises no longer suitable for sale of poisons	17
8	Court may revoke authorization of person under Article 6.....	17
9	Authorization of agrochemical suppliers to sell poisons specified in Part 1 of Poisons List	18
10	Minister may revoke authorization of agrochemicals supplier	18
11	Court may revoke authorization of agrochemicals supplier.....	19
12	Appeal against refusal to authorize person or revocation of authorization.....	19
PART 4		20
<hr/>		
	OTHER OFFENCES	20
13	Records to be made of sale of certain poisons	20
14	Poisons shall not be sold or supplied except in labelled containers.....	20

15	Poisons shall not be sold by means of vending machines.....	20
16	Persons shall not falsely claim to be authorized to sell a poison	20
17	Person shall not delay, hinder or obstruct inspector	21

PART 5 **21**

ADMINISTRATIVE MATTERS		21
18	Advice to Minister	21
19	Orders.....	21
20	Inspection, search and seizure.....	22

PART 6 **23**

CONCLUDING PROVISIONS		23
21	Offences: evidence.....	23
22	Service of notices.....	23
23	Amendment of enactments	23
24	Transitional provisions.....	23
25	Citation and commencement.....	23



Jersey

DRAFT POISONS (JERSEY) LAW 201-

A LAW to regulate the sale and supply of poisons and for connected purposes

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

PART 1

INTRODUCTORY MATERIAL

1 Interpretation

In this Law, unless the context otherwise requires –

“1995 Law” means the Medicines (Jersey) Law 1995¹;

“agrochemical” means a substance prepared by its manufacturer for use in agriculture, horticulture, forestry, aquaculture or livestock production;

“agrochemicals supply business” means a business, part or all of which involves the sale of agrochemicals;

“certified agrochemicals supplier” means a person certified as competent under the scheme known as the British Agrochemical Standards Inspection Scheme, or a prescribed scheme, to supply agrochemicals;

“container” includes a wrapper;

“medicinal product” has the same meaning as in Article 2 of the 1995 Law;

“Minister” means the Minister for Health and Social Services;

“non-medicinal substance” means a substance that is not –

- (a) a medicinal product; or
- (b) a substance specified, or of a description or class specified, in an Order made under Article 93 or 94 of the 1995 Law;

“poison” means a substance that is specified in a Part of the Poisons List;

“Poisons List” means the list declared under Article 2;

“prescribed” means prescribed by Order under Article 19(1);

“registered pharmacy” means a registered pharmacy within the meaning of Article 73 of the 1995 Law;

“retail”, in relation to the sale of a poison, means a sale of the poison, by a person in the course of the carrying on of a business, to a person who does not intend, or is reasonably taken by the person to not intend, to sell the poison to another person;

“sell” includes to barter or exchange or to expose for sale;

“substance” includes a mixture of substances;

“wholesale”, in relation to the sale of a poison, means a sale of the poison, by a person in the course of the carrying on of a business, to another person who, in the course of the carrying on of a business, intends, or is reasonably taken by the first person to intend, to sell the poison to a third person.

2 Poisons List

- (1) The Minister shall declare a list of non-medicinal substances that are to be treated as poisons for the purposes of this Law.
- (2) The Minister may, from time to time, declare an amendment to the Poisons List.
- (3) The Poisons List shall be divided into Parts 1 and 2.
- (4) Part 1 of the Poisons List shall specify poisons that are only permitted to be sold, subject to this Law, in accordance with Article 3.
- (5) Part 2 of the Poisons List shall specify poisons that are only permitted to be sold, subject to this Law, in accordance with Article 4.
- (6) In determining whether to place a substance in Part 1 or 2 of the Poisons List, the Minister shall consider –
 - (a) whether the substance is in common use, or likely to come into common use, for purposes other than the treatment of human ailments; and
 - (b) whether it is reasonably necessary to include the substance in Part 2 of the Poisons List if the public are to have adequate facilities for obtaining the substance.
- (7) The Minister shall ensure that a copy of the Poisons List as in force from time to time is available for inspection, without charge, and purchase, by members of the public during the normal opening hours of an office of an administration of the States for which the Minister is assigned responsibility.

- (8) The Minister shall ensure that a notice of the declaration of the Poisons List, or of an amendment to the Poisons List, and the office where, under paragraph (7), the public may inspect and purchase the List, is published in a newspaper circulating in Jersey.

PART 2

RESTRICTIONS ON PERSONS WHO MAY SELL POISONS

3 Sale of poisons specified in Part 1 of Poisons List

- (1) A person shall not sell a poison specified in Part 1 of the Poisons List unless –
- (a) he or she is a pharmacist, or a person acting under the supervision of a pharmacist, and the poison is sold at a registered pharmacy; or
 - (b) he or she is a certified agrochemicals supplier, or a person acting under the supervision of a certified agrochemicals supplier, and the poison is an agrochemical sold under an authorization under Article 9 at premises specified in the authorization.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.
- (3) A person (the “seller”) shall not sell to a person (the “purchaser”) a poison specified in Part 1 of the Poisons List, unless the seller is satisfied that the purchaser –
- (a) intends to use the poison for a proper purpose;
 - (b) is aware of the dangers the poison may pose to human, animal and environmental health and safety; and
 - (c) intends to use and store the poison in a responsible manner.
- (4) A person who contravenes paragraph (3) commits an offence and shall be liable to a fine of level 3 on the standard scale.

4 Sale of poisons specified in Part 2 of Poisons List

- (1) A person shall not sell a poison specified in Part 2 of the Poisons List unless –
- (a) he or she is a pharmacist, or a person acting under the supervision of a pharmacist, and the poison is sold at a registered pharmacy; or
 - (b) he or she is authorized to sell the poison under Article 6 (or is a person acting under the supervision of such a person) and the sale takes place at premises specified in the authorization.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

5 Wholesalers and use for governmental or research purposes exempted from restriction on sale of poisons

Except in accordance with any Order made under Article 19(1), Articles 3 and 4 do not apply to –

- (a) a sale of a poison by wholesale;
- (b) a sale of a poison that is to be exported to a purchaser outside Jersey; or
- (c) a sale of an article, by a person carrying on a business in the course of which poisons are sold by wholesale, or for use by purchasers in their trade or business, to –
 - (i) a person who requires the article for the purpose of the person's trade or business,
 - (ii) a person acting on behalf of a department of Her Majesty's Government, an administration of the States of Jersey or a Parish in Jersey, or
 - (iii) a person who conducts education or research, if the poison is required for the purpose of education or the research.

PART 3

AUTHORIZATIONS TO SELL POISONS

6 Authorization of persons to sell poisons specified in Part 2 of Poisons List

- (1) A person may apply to the Minister to be authorized to sell, at premises specified in the application, all poisons, or a particular poison, referred to in Part 2 of the Poisons List.
- (2) An application under paragraph (1) shall be made using a form made available by the Minister for the purpose and accompanied by the determined fee (if any).
- (3) After receiving an application which complies with paragraph (2), the Minister shall, by notice served on the applicant –
 - (a) authorize the applicant to sell, at premises specified in the authorization, all poisons, or a particular poison, referred to in Part 2 of the Poisons List; or
 - (b) refuse to authorize the applicant to sell all poisons, or a particular poison, referred to in Part 2 of the Poisons List, if the Minister is satisfied that –
 - (i) the applicant (or, if the applicant is a body corporate, an office holder or member of the board of the body corporate) is not a fit and proper person to sell, as the case requires, all poisons or the particular poison,
 - (ii) the premises at which the poison or poisons are to be sold are not suitable for the storage of, as the case requires, all poisons or the particular poison, or

- (iii) the authorization would be made within a period specified in an order under Article 8(1)(b) or 11(1)(b) in relation to the applicant.
- (4) The Minister shall keep a list of persons authorized under this Article.
- (5) The Minister shall ensure that the list kept under paragraph (4) is available for inspection at all reasonable times by members of the public, without charge, at a place determined by the Minister.
- (6) The Minister may determine a fee, or different fees for different cases or classes of case, for the purposes of paragraph (2).

7 Minister may revoke authorization where premises no longer suitable for sale of poisons

- (1) The Minister may serve a notice on a person authorized under Article 6 requesting the person to make, within the period specified in the notice, repairs or alterations to the premises specified in the person's authorization so as to make the premises suitable for the storage of poisons that the person is authorized to sell.
- (2) If a person on whom a notice is served under paragraph (1) fails without reasonable excuse to comply with the notice within the period specified in the notice, the Minister may serve on the person a notice under this paragraph.
- (3) A notice under paragraph (2) shall request the person on whom it is served to show cause within 30 days why the authorization of the person should not be revoked on the grounds that the premises are unsuitable for the storage of the poisons that the person is authorized to sell.
- (4) The Minister may, by notice served on a person after the expiry of the period mentioned in paragraph (3), revoke the authorization of the person under Article 6, if the Minister is satisfied the premises are unsuitable for the storage of the poisons that the person is authorized to sell.

8 Court may revoke authorization of person under Article 6

- (1) If a person to whom an authorization is granted under Article 6 is convicted of an offence that, in the opinion of the court that convicts the person, indicates the person is not a suitable person to be authorized to sell poisons, the court may –
 - (a) cancel the person's authorization; and
 - (b) order that the Minister shall not within a period specified in the order authorize the person under Article 6 or 9.
- (2) Where a court has ordered the cancellation of a person's authorization, the court may, if it thinks fit, suspend the operation of the order pending an appeal.

9 Authorization of agrochemical suppliers to sell poisons specified in Part 1 of Poisons List

- (1) An agrochemicals supplier may apply to the Minister for authorization to sell, at premises specified in the application, all poisons, or a particular poison, referred to in Part 1 of the Poisons List.
- (2) An application under paragraph (1) shall be made using a form made available by the Minister for the purpose and accompanied by the determined fee (if any).
- (3) After receiving an application which complies with paragraph (2), the Minister shall, by notice served on the applicant, authorize or refuse to authorize the applicant.
- (4) Subject to paragraph (6), the Minister shall, under paragraph (3), authorize an applicant to sell at premises specified in the authorization all poisons, or a particular poison, referred to in Part 1 of the Poisons List that is specified in the authorization, if the Minister is satisfied that the applicant is a certified agrochemicals supplier.
- (5) The Minister shall, under paragraph (3), refuse to authorize an applicant to sell a poison specified in Part 1 of the Poisons List if the Minister is not satisfied that the applicant is a certified agrochemicals supplier.
- (6) The Minister shall, under paragraph (3), refuse to authorize an applicant to sell a poison specified in Part 1 of the Poisons List if the authorization would be made within a period specified in an order under Article 8(1)(b) or 11(1)(b) in relation to the applicant.
- (7) The Minister shall keep a list of persons authorized under this Article.
- (8) The Minister shall ensure that the list kept under paragraph (7) is available for inspection, at all reasonable times by members of the public, without charge, at a place determined by the Minister.
- (9) The Minister may determine a fee, or different fees for different cases or classes of case, for the purposes of paragraph (2).

10 Minister may revoke authorization of agrochemicals supplier

- (1) The Minister may, by notice served on a person, ask the person to show cause within 30 days why the authorization of the person under Article 9 should not be revoked on the grounds that he or she has ceased to be a certified agrochemicals supplier.
- (2) The Minister may, by notice served on a person after the expiry of the period mentioned in paragraph (1), revoke the authorization of the person under Article 9.
- (3) A notice may only be served under paragraph (2) if the Minister is satisfied that the person on whom it is served has ceased to be a certified agrochemicals supplier.
- (4) The Minister shall specify in the notice under paragraph (2) the reason for revoking the authorization.

11 Court may revoke authorization of agrochemicals supplier

- (1) If a person authorized under Article 9 is convicted of an offence that, in the opinion of the court that convicts the person, indicates the person is not a suitable person to be authorized to sell poisons, the court may –
 - (a) cancel the person's authorization; and
 - (b) order that the Minister shall not authorize the person under Article 6 or 9 within a period specified in the order.
- (2) Where a court has ordered the cancellation of a person's authorization, the court may, if it thinks fit, suspend the operation of the order pending an appeal.

12 Appeal against refusal to authorize person or revocation of authorization

- (1) A person may appeal to the Royal Court against a decision of the Minister –
 - (a) under Article 6, to refuse to authorize the person to sell all poisons, or a particular poison, referred to in Part 2 of the Poisons List;
 - (b) under Article 7, to revoke the person's authorization under Article 6;
 - (c) under Article 9, to refuse to authorize the person to sell all poisons, or a particular poison, referred to in Part 1 of the Poisons List; or
 - (d) under Article 10, to revoke the person's authorization under Article 9.
- (2) An appeal under this Article against a decision may only be made by a person within 28 days after notice of the decision is served on the person under Article 6(3), 7(4), 9(3) or 10(2), unless the Royal Court determines that the period should be extended.
- (3) If the Minister has not served –
 - (a) a notice under Article 6(3) on a person who made an application under Article 6(1); or
 - (b) a notice under Article 9(3) on a person who made an application under Article 9(1),within the 60 day period beginning the day after the application was made, the Minister shall be taken for the purposes of this Article to have decided to refuse the application and to have served notice of the decision on the applicant on the day after the end of that period.
- (4) The Royal Court may determine an appeal under this Article by –
 - (a) confirming the decision to which the appeal relates;
 - (b) quashing the decision of the Minister to which the appeal relates and referring the matter back to the Minister for the Minister's decision in accordance with the law; or
 - (c) making any decision that the Minister could have made under Article 6, 7, 9 or 10, as the case may be.
- (5) The Royal Court may make the orders it thinks appropriate, including ancillary orders and orders as to costs.

PART 4
OTHER OFFENCES

13 Records to be made of sale of certain poisons

- (1) The Minister shall specify, in the Poisons List, any poison for which records are to be made in accordance with this Article.
- (2) A person (the “seller”) shall not sell to a person (the “purchaser”) the poison unless –
 - (a) the seller has ensured that an entry is made, in a book kept for the purpose at the premises at which the sale is made, specifying in the prescribed form –
 - (i) the date of the sale,
 - (ii) the name and address of the purchaser,
 - (iii) the name and quantity of the substance containing the poison, and
 - (iv) the purpose for which the purchaser stated the substance containing the poison was required; and
 - (b) the purchaser has signed the entry in the book.
- (3) A person who contravenes paragraph (2) commits an offence and shall be liable to a fine of level 4 on the standard scale.

14 Poisons shall not be sold or supplied except in labelled containers

- (1) A person shall not sell a poison unless, if a manner or form for labelling the container is prescribed, the poison is in a container that is labelled as prescribed.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

15 Poisons shall not be sold by means of vending machines

- (1) A person shall not place, or cause to be placed, a poison for sale in a vending machine, or offer, or cause to be offered, a poison for sale in a vending machine.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 4 on the standard scale.

16 Persons shall not falsely claim to be authorized to sell a poison

- (1) A person shall not hold himself or herself out as authorized to sell a poison (including by the use of a title, symbol or description that is reasonably likely to suggest that the person is entitled to sell the poison) unless he or she is authorized under Article 6 or 9 to sell that poison.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 2 on the standard scale.

17 Person shall not delay, hinder or obstruct inspector

- (1) A person shall not wilfully delay, wilfully hinder or wilfully obstruct an inspector in the exercise of the inspector's powers under Article 20.
- (2) A person who contravenes paragraph (1) commits an offence and shall be liable to a fine of level 2 on the standard scale.

PART 5**ADMINISTRATIVE MATTERS****18 Advice to Minister**

The Minister shall, as he or she thinks appropriate, obtain and consider, in relation to the discharge of his or her functions under this Law, the advice of persons appearing to the Minister to have specialist knowledge of the matters prohibited or regulated by this Law.

19 Orders

- (1) The Minister may make Orders in respect of the following –
 - (a) the supply or sale of a poison by wholesale or the supply or sale of a poison by retail, including but not limited to Orders –
 - (i) prohibiting, regulating or restricting the sale or supply of poisons, and
 - (ii) dispensing with or relaxing any of the provisions of this Law relating to the sale of poisons;
 - (b) the storage, transport and labelling of poisons;
 - (c) the containers in which poisons may be sold or supplied;
 - (d) the addition to poisons of specified ingredients for the purpose of making them readily distinguishable as poisons;
 - (e) the period for which any entry required to be made for the purposes of Article 13(2)(a) shall be kept;
 - (f) prescribing anything that this Law specifies shall or may be prescribed.
- (2) An Order may be made under paragraph (1)(f) prescribing a scheme for the purposes of the definition “certified agrochemicals supplier” in Article 1 by identifying a scheme or by specifying the contents of the scheme.
- (3) An Order made under paragraph (1) may impose requirements as to the labelling of poisons, the containers in which poisons may be sold or supplied and the ingredients required to be added to poisons, so as to make them readily distinguishable as such, by reference to requirements from time to time imposed by an authority outside Jersey.
- (4) Where the Minister makes an Order which contains a reference described in paragraph (3) the Minister shall, if the requirements imposed by the

other authority are not otherwise reasonably accessible by the public in Jersey, take steps so as to make them so accessible.

- (5) The Minister's obligation under paragraph (4) may be discharged by making a copy of the requirements available for inspection, at all reasonable times, by members of the public, without charge, at a place determined by the Minister.
- (6) An Order made under paragraph (1) may create offences punishable by a fine, specified in the Order, of not more than level 4 on the standard scale.

20 Inspection, search and seizure

- (1) The Minister may appoint pharmacists to be inspectors.
- (2) An inspector may, at all reasonable times, enter –
 - (a) registered pharmacies;
 - (b) agrochemical supply businesses;
 - (c) premises at which a person who is authorized under Article 6 carries on a business or at which an agrochemicals supplier authorized under Article 9 carries on an agrochemicals supply business; or
 - (d) premises at which the inspector has reasonable cause to suspect that an offence against this Law or an Order made under it has been committed.
- (3) An inspector may not enter residential premises under this Article.
- (4) If a person at premises requests an inspector to provide evidence of the inspector's appointment as an inspector, the inspector may only enter the premises under paragraph (2) if he or she provides the evidence to the person.
- (5) An inspector may, at premises entered in accordance with this Article, do any or all of the following –
 - (a) search the premises;
 - (b) inspect any book kept pursuant to Article 13;
 - (c) break open any container at the premises and search its contents;
 - (d) take, for the purpose of examination or analysis, a container containing a substance, or a sample of a substance, found at the premises, after leaving at the premises a receipt specifying the nature of the container or substance taken;
 - (e) seize and detain, for the purposes of proceedings under this Law, anything found in the course of the search which appears to the inspector to be evidence that an offence against this Law or an Order made under it has been committed, after leaving at the premises a receipt specifying the nature of the object detained.

PART 6**CONCLUDING PROVISIONS****21 Offences: evidence**

- (1) In any proceedings for an offence against this Law or an Order made under it, a certificate stating the result of an analysis of a substance made on behalf of the Minister shall be admissible in any proceedings under this Law as evidence of the matters stated in the certificate.
- (2) The prosecution or the defendant or person charged with the offence may require to be called as a witness the person by whom an analysis of a substance referred to in a certificate made on behalf of the Minister was made.

22 Service of notices

Any notice to be served under this Law or an Order made under it may be served by post.

23 Amendment of enactments

- (1) The Poisons (Jersey) Law 1952² is repealed.
- (2) The States may by Regulations repeal or amend any enactment, consequentially upon the commencement of this Law.

24 Transitional provisions

The Minister may by Order make transitional provisions for the purposes of the commencement of this Law and the repeal or amendment of any enactment under Article 23.

25 Citation and commencement

- (1) This Law may be cited as the Poisons (Jersey) Law 200-.
- (2) This Law shall come into force on such day or days that the States may by Act appoint.

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- ¹ *chapter 20.625*
² *L.28/1952 (chapter 20.775)*