

STATES OF JERSEY



DRAFT EXPLOSIVES (JERSEY) LAW 201-

**Lodged au Greffe on 20th May 2014
by the Minister for Home Affairs**

STATES GREFFE



Jersey

DRAFT EXPLOSIVES (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 Home Affairs has made the following statement –

In the view of the Minister for Home Affairs, the provisions of the Draft Explosives (Jersey) Law 201- are compatible with the Convention Rights.

Signed: **Senator B.I. Le Marquand**

Minister for Home Affairs

Dated: 20th May 2014

REPORT

Introduction

1. Although the Draft Explosives (Jersey) Law 201- replaces the Explosives (Jersey) Law 1970, the majority of provisions in the new Law are contained in the current Law. However, the Law is being replaced because the 1970 Law is dated and the style and standard of law drafting has changed considerably. Although the 1970 Law contains 23 Articles compared to 82 in the new Law, the content is similar because individual Articles have replaced sub-paragraphs to Articles in the 1970 Law. For example, Articles 23 to 26 covering the storage of explosives in the draft Law have replaced Article 4(1) to 4(7) in the 1970 Law.
2. Because the provisions in relation to the import, manufacture, storage, use, transfer and movement of explosives are broadly similar, this report focusses on those aspects of the draft Law that are either new or materially different.

Summary of new provisions and key changes to the existing Law

Definition of explosives (Interpretation and Article 2)

3. A great deal of consideration was given to the appropriate way to define explosives in such a manner that it would be as accessible as possible to the public, but at the same time capture all explosives. There are now many more types and categories of explosive than there were in 1970. UK legislation relating to explosives defines them by reference to the United Nations Recommendations on the Transport of Dangerous Goods. On the basis that it would not be appropriate for Jersey to be out of sync with the rest of the British Isles, it was thought prudent to also refer to the UN Recommendations in line with the UK when defining explosives.
4. Items that fall within the UN classification are listed on the UK Health and Safety Executive database of explosives and fireworks, which is updated as appropriate and can be found at:
<http://www.hse.gov.uk/explosives/information/classification.htm>
5. The database, which applies to all fireworks and explosives imported into, or transported within the UK (apart from military explosives) can be accessed online by registered users and holds details of thousands of individual explosives and fireworks. The Department took the view that any other method of defining explosives would be both inefficient to operate and impossible to keep up-to-date.
6. In relation to the definition of fireworks, they are defined by reference to the current British Standard Specification (BS7114) or any Specification that subsequently replaces it.

Export of Explosives (Article 4(g) and Part 8)

7. The draft Law continues to provide for the control of the import, manufacture, storage, use, transfer and movement of explosives by means of licences granted by the Minister for Home Affairs as in the 1970 Law, but it also introduces the new licensing requirement for the export of explosives.

8. There is currently no provision for the export of explosives, presumably because it was never envisaged that Jersey would require such a need. However, there is sometimes a need to return explosives to the point of origin (Article 38(1)). Additionally, in recent years, there have been occasions when we have been asked to assist Guernsey with the provision of explosives. This may be because Guernsey have run out of explosives and it is quicker for them to import the explosives from Jersey, or where Jersey has a surplus of explosives at the end of a particular project and they are of use to Guernsey. Further, there is sometimes a business need to take fireworks out of the Island.

Reloading Powder (Article 5)

9. Because of the importance to shooters in the Island, it was decided that it would be helpful for the provisions relating to reloading powder to be put into one Article, rather than being dealt with in various different Articles as is the case under the 1970 Law.
10. Currently, under the 1970 Law, a holding of up to 4kgs of reloading powder is permitted by virtue of the Code of Requirements (CoR), which states at 1.12 –

“Except for private use where a maximum of 4 kg of small arms propellant only may be kept, all other storage accommodation for explosives must be licensed by the Minister.”
11. The Minister has agreed that there should continue to be a general exemption from the requirement to have a licence/certificate in relation to holdings of 4kgs or less of reloading powder. This general dispensation relating to adults will be done formally by Ministerial Order. The dispensation will cover not only the storage of up to 4kgs of reloading powder, but also the storage, use, transfer and movement thereof (see Articles 23(3)(b), 27(2)(a), 30(4)(a) and 33(3)(a) respectively). The Ministerial Order will set out, *inter alia*, the requirement for the safe storage of the reloading powder and the manner in which it should be stored.
12. It was further agreed (MD-HA-2011-0078 refers) that there should be exemptions from the requirement to have a licence put into place in certain circumstances to enable people to hold more than 4kgs of reloading powder for use in a historical pageant, public display or other purpose. These details would be set out in a Ministerial Order. The rationale for the age of 17 in Articles 5(1) and 5(2) is that it aligns with the age at which a young person can purchase or hire firearms or ammunition under the Firearms (Jersey) Law 2000. Anyone over the age of 17 who requires more than 4kgs of reloading powder for the purposes set out above will be able to apply to the Minister for a certificate to exempt them from the requirements of the Law in respect of the storage, use, transfer and transport of reloading powder.
13. It is not anticipated that the Ministerial Order will permit the holding by any one person of more than 10kgs of reloading powder, i.e. the upper limit. The Ministerial Order will set out, *inter alia*, the requirement for the safe storage of the reloading powder and the manner in which it should be stored. Any person applying for a certificate to hold more than 4kgs of reloading powder may have their facilities for the storage of reloading powder inspected by an inspector, as defined under the Law, and the details of their address forwarded

to the States of Jersey Fire and Rescue Service for awareness in case of a fire at the premises.

14. Possession of a certificate to hold more than 4kgs of reloading powder means that an individual does not require a licence for its storage, use, transfer and movement. However, in accordance with Article 35, any vehicle in which more than 4kgs of reloading powder are being transported will need to have a warning sign displayed.
15. There has been extensive consultation on these new provisions with the Jersey Firearms Council, the Muzzleloaders Association and the Firearms Law Liaison Group in order to determine practical and safe provisions in relation to holdings of reloading powder.

Exemptions (Article 9)

16. The draft Law gives the Minister for Home Affairs new powers of exemption. These relate to small quantities of reloading powder (as detailed above), but also to matters that involve public safety, such as the destruction of wartime explosives by the EOD officer. They will also relate to other items that are in everyday use, such as seatbelt tensioners and airbags, which will be set out in a Ministerial Order.

Licence for the Storage of Explosives (Article 23)

17. The Minister has agreed with the Comité des Connétables to add the Connétable of the relevant Parish to the distribution list for copies of storage and use licences that are issued under the Explosives Law. This will be included in the Codes of Practice issued under Article 73. Explosives licences for storage and use are issued on an annual basis and expire on 31st December of the year in which they are issued. It should be borne in mind that in the case of the quarries, their magazines are normally almost empty on a daily basis. The quarries do not hold their maximum capacity other than on a day when they intend to blast, and they bring the product in early the same morning from magazines at Crabbé. The explosives magazines are routinely inspected and licensed by the Explosives Licensing Officer.

Licence for the Movement of Explosives (Article 33)

18. In response to a recommendation from the Education and Home Affairs Scrutiny Panel, the Minister has agreed that the Connétables of the Parishes through which lorries carrying explosives will travel will be added to 33(5), which details those people to whom a copy of the conveyance licence must be sent. The licence issued by the Minister details the route that the lorry must take, times of the day, and other important safety information.

Fireworks

19. In relation to fireworks, the draft Law contains new provisions at Articles 44 to 53 for the States to create Regulations for the better protection of persons and animals (including the avoidance of anxiety and distress), and of property. These Regulation-making powers are based on those contained in the Fireworks Act 2003 (c.22) (UK).
20. It is generally recognised at present that, whilst the retail sales of fireworks are covered in the current Law, it is deficient regarding their wider supply and

use, especially in relation to firework displays. Separate Regulations to cover all aspects of their supply, possession and use will be made; Articles 44 to 53 specify what the new Regulations will cover. These will be drafted whilst the new Law is receiving Royal assent and will be laid before the States prior to the Law being brought into force by Appointed Day Act.

Article 48 – Public fireworks displays

21. The Minister has agreed with the Education and Home Affairs Scrutiny Panel to establish a system by virtue of which anyone wishing to hold a public fireworks display, of a description specified in Regulations, may have to obtain a licence from the Connétable of the relevant Parish. It is intended that there would be a dual system in which some categories of public display would simply have standard conditions attached to them, which would be set out in the Regulations, whilst others would require the Connétable to issue a licence with specific conditions. Consequently, in Article 48(2), the words ‘of a description specified in the Regulations’ have been added after the words ‘public fireworks displays’ so that it links in with 48(1).

Article 57 – Rights of appeal

22. In relation to any application that is considered by a Connétable, for example an application for a licence for a public firework display or to sell fireworks, a first level of appeal to the Connétables will be included in the Regulations. It is intended that any person who is aggrieved by a decision made by a Connétable can give notice in writing that they wish to have their decision reviewed by the Comité des Connétables. The Chairman of the Comité des Connétables would then convene a Panel of 3 Connétables (excluding the Connétable whose decision is the subject of the review) to review the decision. The appeal to the Royal Court would remain as a second line of appeal against the decision of the Connétables.

Financial and manpower implications

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

Human Rights

24. The notes on the human rights aspects of the draft Law in the **Appendix** have been prepared by the Law Officers’ Department and are included for the information of States Members. They are not, and should not be taken as, legal advice.

APPENDIX TO REPORT

Human Rights Notes on the Draft Explosives (Jersey) Law 201-

These Notes have been prepared in respect of the Draft Explosives (Jersey) Law 201- (the “**draft Law**”) by the Law Officers’ Department. They summarise the principal human rights issues arising from the contents of the draft Law and explain why, in the Law Officers’ opinion, the draft Law is compatible with the European Convention on Human Rights (“**ECHR**”).

These notes are included for the information of States Members. They are not, and should not be taken as, legal advice.

The draft Law raises issues in respect of three rights provided in the ECHR: Article 1 of Protocol No. 1 to the ECHR (“A1P1”) (right to the peaceful enjoyment of property); Article 8 of the ECHR (right to private and family life); and Article 6 of the ECHR (right to a fair trial). The reasons why the draft Law is compatible with each of these rights are set out briefly below.

A1P1 of the ECHR provides –

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

A1P1 has the potential to be engaged by provisions made in and under the draft Law that impose restrictions on the way in which explosives, as possessions, are used and so forth. A1P1 will also be engaged by some of the powers in Part 12 of the draft Law given to inspectors and to the Royal Court with regard to the inspection, seizure and forfeiture of explosives.

A1P1 is a qualified right, so if the interference can be justified then no breach of A1P1 occurs. Any interference with the peacefully enjoyment of property, whether as a control on the use property or a deprivation of property, must be in accordance with the law and achieve a fair balance between the means employed and the public interest pursued. States have considerable discretion (often referred to as their ‘margin of appreciation’) in determining what is in the general interest. However, as a deprivation of property usually has a more profound effect on the enjoyment of property than a control of use, the task of demonstrating that a deprivation is proportionate is more difficult and the margin of appreciation is smaller.

In general, the system for licensing and regulating the use of explosives detailed in the draft Law may amount to a control on the use of possessions. However, this regime pursues the vital public interest in protecting public safety and is proportionate to that aim. The powers of an inspector under the Law to take a sample of an explosive and of a designated inspector to seize an explosive or to dispose of an explosive should also

amount to a control on the use of property rather than a deprivation. However, even if they or the Royal Court's power to order the forfeiture of explosives do amount to a deprivation of property, those powers can be justified as proportionate in the circumstances and in view of the safeguards applied to them. In particular, it is relevant to note that a designated inspector's powers of seizure and disposal can only be exercised where the designated inspector reasonably suspects or believes that the explosives is defective and may constitute a danger to persons or property. Further that the forfeiture powers of the Royal Court are also limited to specific defined circumstances.

Accordingly, in so far as the provisions of the draft Law may constitute an interference with AIP1 rights, that interference can be justified as proportionate to the public interest.

Article 8 of the ECHR provides –

- “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.*
2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”*

The powers of investigation and the associated means of obtaining evidence provided for in Articles 64 and 66 of the draft Law will engage Article 8 of the ECHR. These include, *inter alia*, the power to enter and inspect any premises, vehicle, vessel, hovercraft or aircraft in which an inspector has reasonable cause to believe there is or has been an explosive. They also include the power to inspect documents or records, to take copies and, if necessary, to remove them temporarily to do so.

It is well established that corporations, as well as private individuals, may rely on Article 8(1) ECHR rights in respect of business premises. It is also well established that searches of offices or other premises constitute an interference with the right to respect for private and home life. Further, as the documents that may be inspected, produced or seized using these powers may contain correspondence, the exercise of these powers may constitute an interference with the right to respect for correspondence.

Any interference with the right afforded by Article 8(1) ECHR must be justified in accordance with Article 8(2) ECHR if it is to be compatible with the Convention. In order to justify interference, it must be in accordance with the law, be in pursuit of a specified legitimate aim and be necessary in a democratic society. In other words it must be proportionate to that aim.

In this case such interference with Article 8 ECHR rights as is permitted by Part 12 of the draft Law would be deemed to be in accordance with the law. Further, the exercise of these enforcement powers should pursue a legitimate aim of protecting national security and public safety. The exercise of powers to require the disclosure of information and to enter and inspect premises should be seen as proportionate for his this purpose in view of the significant safeguards applied to them. The powers provided by Article 64 and 66 of the draft Law may only be exercised by persons who are appointed as, or who are deemed to be, “inspectors” under Article 61. Except in an

emergency, the powers of entry and inspection in Article 64 are exercisable only in accordance with a warrant issued by the Bailiff or a Jurat under Article 65. When exercising their authority, inspectors are required to produce evidence of their authority. The extent of an inspector's powers are clearly set out and limited and there are also requirements to issue receipts and records of an inspection.

The powers of inspection are, in view of these safeguards, capable of being justified as being in accordance with the law and proportionate to a legitimate aim.

Article 6 of the ECHR – guarantees procedural fairness in the course of civil proceedings and a right of access to a court for the determination of civil rights and obligations. It is generally accepted that decisions affecting the right to operate a business will qualify as an economic and property right, and therefore tend to give rise to a civil right. Therefore, where a Minister makes a decision to refuse to grant a licence or certificate, imposes conditions on the grant of a licence or certificate, or revokes or varies a licence or certificate, that decision may determine civil rights for the purposes of Article 6 of the ECHR.

Decisions that determine civil rights and obligations need not be made by bodies that provide all the procedural guarantees required by Article 6 of the ECHR, so long as there is a right of review or appeal sufficient to render the decision making process as a whole compatible with Article 6. Article 57 of the draft Law provides that an appeal against a decision in respect of a licence or certificate may be made to the Royal Court. The draft Law does not impose any restrictions on the jurisdiction of the Royal Court with respect to such an appeal and having heard the appeal, the Royal Court has the power in Article 60 to make such an order as it thinks fit as respects the licence or certificate. The draft Law is, therefore, compatible with Article 6 of the ECHR.

Explanatory Note

This draft Law would replace the Explosives (Jersey) Law 1970.

It revises definitions relating to explosives. The changes take account of United Nations classifications and, in respect of fireworks, the current British Standard specification.

It continues to provide for the control of the import, manufacture, storage, use, transfer and movement of explosives, by means of licences granted by the Minister for Home Affairs.

The draft Law also introduces a new licensing requirement for the export of explosives.

In respect of fireworks, it contains new Regulation-making powers for the better protection of persons and animals (including the avoidance of anxiety and distress), and of property.

It also enables the Minister to make Orders permitting and regulating the possession and use of reloading powder, by persons not younger than 18, without a licence. Such an Order may grant blanket permission for adults to keep for their own use not more than 4 kg of powder. An Order may also provide for the grant by the Minister, on an individual's application, of a certificate allowing the applicant to keep more than 4 kg of powder for his or her own use in an historical re-enactment or public display, or for any other public purpose specified in the Order.

The draft Law is arranged in the following way –

Part 1 – Introductory Provisions

Article 1 explains expressions used in the draft Law.

Article 2 defines “explosive”.

In this draft Law, it means in particular any of the following things –

- (a) an explosive substance, or an article containing an explosive substance, that if packaged for transport would be classified under the United Nations Recommendations as falling within Class 1 in that system of classification;
- (b) an explosive article, or an article containing an explosive substance, that would be classified under the U.N. Recommendations as falling within Class 1 because it is unduly sensitive, or because it is so reactive as to be subject to spontaneous reaction, and is accordingly too dangerous to transport;
- (c) an explosive substance that has been wetted, or diluted, dissolved or suspended in another substance, so as to suppress its explosive properties; and without such treatment would be classified under the U.N. Recommendations as falling within Class 1;
- (d) fireworks; and

- (e) any other article, substance or preparation that the Minister, by Order under Article 2(9), designates as an explosive for the purposes of the draft Law.

Items that fall within the U.N. classification are listed on the website <http://www.hse.gov.uk/explosives/information/classification.htm>.

“Fireworks” is defined by reference to the British Standard Specification for fireworks.

Article 3 deals with the application of the draft Law.

It will not apply to ammunition that is subject to the Firearms (Jersey) Law 2000.

Parts 2 to 8 relate to the control of explosives. Part 9 applies specifically to fireworks and provides for their control by Regulations made under that Part. Such Regulations may also apply any provisions of Parts 2 to 8 of the draft Law (including licensing) to fireworks, but need not do so.

Article 4 enables the Minister for Home Affairs to grant licences, to persons who are 18 or older, for the import, manufacture, storage, use, transfer, conveyance and export of explosives.

In granting a licence, the Minister may impose conditions.

Article 5 enables the Minister to make an Order authorizing persons who are 17 or older to keep and use not more than 4 kg of reloading powder without having to apply for permission to do so.

It also enables the Minister to make an Order providing for the keeping and use of a larger quantity of reloading powder for an historical pageant, public display or other public purpose, under a certificate granted by the Minister to an individual adult on the latter's application.

Any Order made under Article 5 may impose conditions of authorization.

In granting a certificate under Article 5(2), the Minister may also impose conditions of authorization; and the Minister may by Order impose standard conditions in respect of certificates generally (see Article 74).

Article 6 requires the Minister, when considering whether to grant a licence or certificate, to have regard first to the need to ensure public safety. He or she must also consider the fitness and competence of the applicant, and the purpose for which the licence or certificate is sought.

If the Minister refuses to grant an application, or grants it subject to conditions other than standard conditions, he or she must state his or her reasons.

Article 7 provides that if a fee is prescribed for an application to the Minister, it is payable when the application is lodged. The Minister need not consider the application until it is paid.

Article 8 provides that if a licence or certificate granted by the Minister contains a date of expiry, it ceases to be in force on that date. If it does not specify a date, it expires on 31st December in the year in which it is granted.

Article 9 enables the Minister by Order to exempt specified kinds of explosives – for example, boat flares, seat belt pre-tensioners or air bags – from the requirements of the

Law. Before doing so, the Minister must be satisfied that the grant of the exemption will not endanger public safety, and that the type of explosive concerned can for the purposes of the Law be adequately regulated under the exemption.

The Order may impose conditions of exemption.

Article 9 also enables the Minister to grant a named person a written exemption from the Law in the interests of public safety, or if it is otherwise in the public interest to do so – for example, to permit an expert to detonate an unexploded wartime bomb in an emergency, or for the purposes of a public security measure.

In granting an exemption under these provisions, the Minister may also impose other conditions.

Article 10 requires the holders of certain licences granted by the Minister to maintain registers in respect of the explosives with which they are licensed to deal. A separate register must be maintained for every magazine. Subject to this requirement, the same register may relate to more than one kind of licence – in other words, the keeping of a combined register is permissible.

A register must not be kept at or in a magazine.

Part 2 – The Import of Explosives

Article 11 prohibits the import of an explosive into Jersey except in accordance with an import licence.

Article 12 prohibits the import of an explosive into Jersey except by sea.

Article 13 requires the Minister, before granting a licence to import an explosive, to consult the Minister for Economic Development to ensure that the arrangements for landing the explosive are adequate.

Article 14 prevents the Minister from granting an import licence if not satisfied that, while the importer has possession of the explosive in Jersey, it will be stored properly.

Article 15 sets out the details that must be included in an import licence. Among other things, it must specify the date on which the explosive may be imported. This may be expressed as a particular date, or as any day falling within a given period.

Article 16 provides that an import licence only authorizes importation on one occasion.

Article 17 requires the Minister, on granting an import licence, to send copies of the licence to the Harbour Master and the Agent of the Impôts.

Article 18 sets out additional information that the holder of an import licence must keep in a register.

Part 3 – The Manufacture of Explosives

Article 19 prohibits the manufacture of an explosive in Jersey except in accordance with a manufacturing licence.

Article 20 prevents the Minister from granting a manufacturing licence if not satisfied that, while the manufacturer has possession of the explosive in Jersey, it will be stored properly.

Article 21 sets out the details that must be included in a manufacturing licence.

Article 22 sets out additional information that the holder of a manufacturing licence must keep in his or her register.

Part 4 – The Storage of Explosives

Article 23 prohibits the storage of an explosive otherwise than in a licensed magazine and in accordance with the terms of a magazine licence.

The restriction does not apply to a public officer storing an explosive in the course of duty, nor to a person who stores reloading powder in accordance with an authorization by or under an Order made under Article 5.

Article 24 prevents the Minister from granting a magazine licence unless satisfied that the facility for storage of explosive is adequate and appropriate.

Article 25 sets out the details that must be included in a magazine licence.

Article 26 sets out additional information that the holder of a magazine licence must keep in the register.

Part 5 – The Use of Explosives

Article 27 prohibits the use of an explosive in Jersey except in accordance with a user's licence.

It does not apply to a person who uses reloading powder in accordance with an authorization by or under an Order made under Article 5.

Article 28 sets out the details that must be included in a user's licence.

Article 29 sets out additional information that the holder of a user's licence must keep in the register.

Part 6 – The Transfer of Explosives

Article 30 prohibits the supply of explosives to another person unless the recipient holds a transfer licence and the transfer is made in accordance with the transfer licence.

This restriction does not apply in any of the following circumstances –

- (a) the delivery of explosives to an inspector;
- (b) the receipt of explosives by an importer in accordance with his or her licence;
- (c) the supply of reloading powder to a person who is authorized by or under an Order made under Article 5 to keep and use a quantity not exceeding the amount supplied; or

- (d) the acquisition and possession of reloading powder in accordance with such an authorization.

Article 31 sets out the details that must be included in a transfer licence.

Article 32 sets out additional information that the holder of a transfer licence must keep in a register.

Part 7 – The Movement of Explosives

Article 33 prohibits the transportation of an explosive in a public place in Jersey, except in accordance with a conveyance licence.

This restriction does not apply to the transport of reloading powder that a person is authorized by or under an Order made under Article 5 to keep and use, if he or she complies with the conditions (if any) in the authorization relating to its movement.

Article 33 also prohibits, in every case, the transport of any explosive on a public service vehicle.

On granting a conveyance licence, the Minister must send copies to the Harbour Master, the Chief Fire Officer and the Chief Officer of the States of Jersey Police Force, and the Connétable of any Parish through which the explosive is to be transported.

Article 34 sets out the details that must be included in a conveyance licence.

Article 35 requires a vehicle that is carrying explosives to display a warning sign.

Part 8 – The Export of Explosives

Article 36 prohibits the export of an explosive from Jersey except in accordance with an export licence.

Article 37 prohibits the export of explosives otherwise than by sea.

Article 38 provides that an explosive that has been imported into Jersey may only be exported from the Island to its place of origin in the country from which it was imported.

However, the Minister may in special circumstances authorize its export to another destination. When doing so, the Minister must record his or her reasons in writing.

Article 39 requires the Minister, before granting a licence to export an explosive, to consult the Minister for Economic Development to ensure that the arrangements for loading and shipping the explosive are adequate.

Article 40 sets out the details that must be included in an export licence.

Article 41 provides that an export licence only authorizes exportation on one occasion.

Article 42 requires the Minister, on granting an export licence, to send copies of the licence to the Harbour Master and the Agent of the Impôts.

Article 43 sets out additional information that the holder of an export licence must keep in a register.

Part 9 – Fireworks

The scheme of this Part is to provide for fireworks to be controlled under Regulations made by the States.

Article 44 enables the States by Regulations to apply (with or without modification) the provisions of the Law governing the import, manufacture, storage, use, transfer, movement, and export of other explosives.

It also enables the States, by Regulations, to provide for preventing the risk that the use of fireworks may cause death, injury or distress to humans or animals, anxiety to humans or destruction of or damage to property. In the draft Law, Regulations made under Article 44 are called “Fireworks Regulations”.

Articles 45 to 51 (which do not limit Article 44) specify particular purposes for which Fireworks Regulations may be made.

Article 45 provides for Fireworks Regulations to control of the supply of fireworks to persons under 18.

Article 46 provides for restrictions on the occasions when fireworks may be supplied or used.

Article 47 enables Fireworks Regulations to control the supply of fireworks (other than indoor and garden fireworks) – in particular by restricting supply and possession to persons who are trained to deal with them.

Article 48 provides for Fireworks Regulations to control public fireworks displays – including requirements for the licensing of certain displays (to be specified in the Regulations) by the Connétable of the Parish in which such a display is to be held, and for notice to the public, for the training of persons who operate such displays and restrictions on young persons operating or assisting in the operation of displays.

Under *Article 49*, Fireworks Regulations may provide for the licensing of suppliers of fireworks by the Minister.

Article 50 enables Fireworks Regulations to make provision controlling information to be given about fireworks.

Article 51 deals with training courses and the recognition by the Minister of qualifications for dealing with fireworks.

Under *Article 52*, Fireworks Regulations may provide that contraventions of such Regulations shall be criminal offences, and for penalties not exceeding 2 years imprisonment and an unlimited fine.

Article 53 provides that if a person is charged under Fireworks Regulations with supplying fireworks to a person who is under age, it is a defence to the charge to prove that the supplier took all reasonable steps and exercised all due diligence to establish whether or not the other person was under age.

Part 10 – Reviews

Article 54 provides for the variation of licences, certificates and exemptions.

Article 55 provides for their revocation.

Article 56 requires the holder of a licence or certificate to surrender it to the Minister for endorsement if it is varied, and to surrender it on its revocation.

If the Minister refuses to grant an application to vary a licence or certificate, or varies it of his or her own initiative, or revokes it, the Minister must give reasons.

Part 11 – Appeals

Article 57 gives an applicant for any licence or certificate a right of appeal to the Royal Court against a decision to refuse the application, or against any condition imposed in granting the application. It also gives the holder of a licence or certificate a right of appeal, to the court, in respect of its variation or revocation.

Article 58 sets a time limit of 21 days for appealing. The Royal Court may extend the time.

Under *Article 59*, the lodging of an appeal will not suspend the effect of the decision against which the appeal is brought unless the Royal Court so orders.

Article 60 provides that on hearing an appeal, the Royal Court may confirm, reverse or vary the decision against which the appeal is brought, and make an order as to the costs of the appeal.

Part 12 – Inspection, Entry and Seizure

Article 61 enables the Minister to appoint any person as inspector for the purposes of the Law or of Fireworks Regulations. Within a harbour or an airport, an officer of the Impôts is an inspector without the need for appointment.

Under this Article, the Minister may also designate inspectors for the purposes of Articles 67, 68 and 69 (which relate to the surrender and seizure and, in cases of urgency, the disposal of explosives that are dangerously defective).

Article 62 provides that an inspector, in exercising powers under the draft Law, may be accompanied by assistants and equipment, if reasonably necessary for the purpose.

Article 63 requires an inspector to produce proof of authority to act, if asked to do so by a person affected. On request, the inspector must also give his or her name, and say what power he or she proposes to exercise or is exercising and the purpose of its exercise. However, the purpose need not be disclosed if to do so would defeat it.

Article 64 gives inspectors powers of entry and investigation in respect of the premises, vehicle, vessel or aircraft of a person who holds a licence or certificate or enjoys an exemption under the draft Law. It also confers those powers in respect of any premises, vehicle, vessel or aircraft if there are reasonable grounds for believing that any of them contains such an explosive.

In exercising these powers, an inspector may take measurements, obtain samples and make copies of documents. If taking away a sample for analysis or a document or record for copying, the inspector must give a receipt. In any event, the inspector must make a record of the exercise of the powers and, if asked to do so within a reasonable

time, give a copy to the owner, occupier, driver, master, commander or person in charge of the premises, vehicle, vessel or aircraft.

The powers in this Article may only be exercised in accordance with a warrant issued by the Royal Court under Article 65, but this restriction does not apply in an emergency.

An “emergency” means a situation in which the inspector reasonably believes that it is necessary to exercise the power to deal with a situation involving danger to life or property and that there is not enough time to obtain a warrant.

Article 65 enables an inspector to apply to the Bailiff or a Jurat for a warrant authorizing him or her to exercise a power under Article 64. The warrant may be issued if the Bailiff or Jurat is satisfied that the exercise of the power is reasonably necessary for the enforcement of the Law. The warrant must specify the purpose for which the power may be exercised. It may limit that purpose and the extent to which the power may be exercised. It may only be executed at a reasonable hour, and in the case of residential purposes only on at least 24 hours’ notice. However, the warrant may authorize its execution immediately or on less than 24 hours’ notice if the purpose of exercising the power would otherwise be defeated.

A warrant under Article 65 will expire after one month if it is not executed.

Article 66 enables an inspector to require a licensee to produce a licence or register for inspection, and to require the holder of a certificate or exemption to produce it for inspection.

This Article also empowers an inspector who enters and inspects any premises, vehicle, vessel or aircraft under Article 64 to require the licensee or holder of the certificate or exemption, or the owner, occupier, driver, master, commander or person in charge, to provide relevant information that is reasonably necessary for the enforcement of the draft Law.

The inspector must specify the place and time at which the item or information is to be produced or provided. A reasonable period of time for compliance must be allowed.

Article 67 requires a person who knows or suspects that that an explosive in his or her possession is dangerously defective to inform an inspector and, if required to do so, to surrender it to a designated inspector.

It also enables a person to surrender any explosive voluntarily to a designated inspector.

A designated inspector who receives an explosive under this Article must give a receipt for it.

Article 68 empowers a designated inspector to seize and detain an explosive that he or she reasonably suspects to be dangerously defective.

Article 68 also empowers an inspector or police officer to seize and detain an explosive if he or she reasonably suspects that it is being or will be dealt with in contravention of the draft Law.

An inspector or police officer who detains an explosive under this Article must give a receipt for it.

Article 69 provides that if a designated inspector reasonably believes that an explosive that is surrendered under Article 67 or seized and detained under Article 68 is dangerously defective, and that the danger justifies its disposal before an application can be dealt with under Article 70 by the Royal Court, the inspector may destroy or otherwise dispose of it in a safe manner.

Article 70 enables the Royal Court, on the application of the Attorney General, to order the forfeiture and disposal of an explosive that has been surrendered under Article 67 or seized and detained under Article 68. The court may do so if satisfied that the explosive is dangerously defective, or that it has been or may be dealt with in contravention of the draft Law.

Article 71 enables the Minister to recover the reasonable costs to the States of the surrender, seizure, forfeiture and disposal of any explosive under any of Articles 67, 68, 69 and 70 as a civil debt due to the States by the person who owned or had possession of the explosive at the time of its surrender or seizure.

Under *Article 72*, it is an offence intentionally and without reasonable excuse to obstruct an inspector in the exercise of his or her powers under the draft Law. It is also an offence to fail without reasonable excuse to give to an inspector information that he or she is entitled to require under the draft Law in respect of explosives.

Part 13 – General Provisions

Article 73 enables the Minister to make Orders approving codes of practice for the guidance of persons dealing with explosives. Compliance or non-compliance with an approved code of practice will be admissible in both criminal and civil proceedings under the draft Law as evidence as to whether a person has acted reasonably.

Article 74 gives the Minister power to make Orders generally for the purposes of the draft Law (including Fireworks Regulations).

Under this Article an Order may prescribe forms, fees and standard conditions of licences and certificates. It may regulate the manufacture and handling of explosives. It may provide for the training of persons who deal with them, and impose requirements for the qualification of such persons.

Any Order made under Article 74 may provide that its contravention is a criminal offence punishable by imprisonment of up to 2 years and a fine.

Article 75 is a general clause creating criminal offences for contraventions of various provisions of the draft Law.

Under *Article 76*, it is an offence to contravene a condition of a licence, certificate or exemption in respect of an explosive.

Under *Article 77*, it is an offence to knowingly or recklessly make a false statement in connection with an application under the draft Law.

The maximum penalties for each level of fine on the standard scale in the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993 are, currently –

Level 1 – £50

Level 2 – £500

Level 3 – £2,000

Level 4 – £5,000.

Article 78 deals with corporate liability for offences, and *Article 79* with the service of documents.

Article 80 provides that the draft Law does not derogate from any requirement to obtain a licence, authorization, consent or permission under any other enactment.

Article 81 provides, in paragraph (1), for the repeal of the Explosives (Jersey) Law 1970 so far as it applies to explosives other than fireworks.

Paragraph (2) of Article 81 provides for the repeal of the 1970 Law so far as it applies to fireworks. If the Fireworks Regulations are not to be brought into force at the same time as the Parts of the draft Law that relate to other explosives, a separate Appointed Day Act would be lodged in respect of the commencement of Article 81(2), to take effect at the same time as the Fireworks Regulations are brought into force.

This Article also provides that if any application is pending under the 1970 Law when the provisions as to such an application in the present draft Law come into force, it is to be dealt with as if it had been made under the new Law.

If any licence under the 1970 Law is still in force when the provisions as to such a licence in the new Law come into force, it will continue in force as if made under the new Law.

Article 82 provides for the citation and commencement of the draft Law. Its provisions will come into force on such day, or days, as the States appoint by Act. Different days may be appointed for different provisions and different purposes of the draft Law.



Jersey

DRAFT EXPLOSIVES (JERSEY) LAW 201-

Arrangement

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Jersey

DRAFT EXPLOSIVES (JERSEY) LAW 201-

A **LAW** to revise the law relating to explosives; 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 PROVISIONS

1 Interpretation

In this Law, unless the context otherwise requires –

“acquire” includes to purchase, to acquire by way of exchange and to acquire as a prize or as a gift;

“approved code of practice” means a code of practice that is approved under Article 73 by the Minister;

“black powder” means an intimate mixture of charcoal or other carbon with potassium nitrate or sodium nitrate (whether the mixture is with or without sulphur, and whether the mixture is in meal, granular, compressed or pelletized form), being an explosive substance allocated, in accordance with the United Nations Recommendations, the U.N. Serial Numbers 0027 or 0028;

“certificate” means a certificate granted by the Minister under an Order made under Article 5(2);

“conveyance licence” means a conveyance licence granted by the Minister under Article 4(1);

“defective”, in relation to explosives, includes explosives which are defective by virtue of being time-expired, whether or not the explosives in question display any physical defect or any sign of deterioration;

“designated inspector” means an inspector whom the Minister designates under Article 61(3);

“exemption” means an exemption granted by the Minister under Article 9;

“export licence” means an export licence granted by the Minister under Article 4(1);

“explosive” has the meaning given by Article 2;

“fireworks” means –

- (a) devices that are fireworks for the purposes of the British Standard Specification relating to fireworks published on 30th November 1988 (BS 7114) or any British Standard Specification replacing it; or
- (b) devices that would be fireworks for those purposes if they were intended as a form of entertainment;

“Fireworks Regulations” means Regulations made under Article 44;

“harbour” means a harbour as defined in Article 1 of the Harbours (Administration) (Jersey) Law 1961¹;

“import licence” means an import licence granted by the Minister under Article 4(1);

“inspector” means a person who is appointed as an inspector under Article 61(1) or is an inspector by virtue of Article 61(2);

“licence” means a conveyance licence, an export licence, an import licence, a magazine licence, a manufacturing licence, a transfer licence or a user’s licence, or a licence for which provision is made in Fireworks Regulations;

“licensed magazine” means a place in respect of which a magazine licence is for the time being in force;

“magazine licence” means a magazine licence granted by the Minister under Article 4(1);

“manufacture” includes –

- (a) in respect of explosive articles, their repair, modification, disassembly or unmaking; and
- (b) in respect of explosive substances, their reprocessing, modification or adaptation,

but does not include the packing, unpacking, re-packing, labelling or testing of explosives, and does not include the division of an amount of explosives stored in bulk into smaller amounts and the placing of those smaller amounts into containers;

“manufacturing licence” means a manufacturing licence granted by the Minister under Article 4(1);

“Minister” means the Minister for Home Affairs;

“non-sensitized” means giving a negative test result when subjected to Test Series 8 of the Manual of Tests and Criteria, 5th revised edition, supporting the United Nations Recommendations;

“officer of the Impôts” has the same meaning as it has in the Customs and Excise (Jersey) Law 1999²;

“prescribed” means prescribed by an Order made under this Law;

“public officer” means a person in the service of the Crown, a States’ employee, any other person who is temporarily employed by an administration of the States of Jersey, an inspector or a police officer;

“public service vehicle” has the same meaning as it has in the Motor Traffic (Jersey) Law 1935³;

“reloading powder” means shooters’ powder that is intended for use for reloading purposes;

“shooters’ powder” means –

- (a) black powder;
- (b) smokeless powder; or
- (c) any other substance or preparation based on potassium nitrate or nitro cellulose (whether in powder, granular or pelletised form) that is used, or is to be used, as a propellant;

“smokeless powder” means an explosive substance allocated, in accordance with the United Nations Recommendations, the U.N. Serial Numbers 0160 or 0161;

“standard condition” means a condition that is prescribed by an Order;

“States’ employee” has the same meaning as it has in the Employment of States of Jersey Employees (Jersey) Law 2005⁴;

“store” means to have in one’s possession otherwise than –

- (a) in the course of import, export or transport in accordance with (as the case may be) an import licence, export licence or conveyance licence; or
- (b) in the course of use in accordance with a user’s licence;

“substance” means any natural or artificial substance, whether in solid or liquid form or in the form of a gas or vapour;

“supply” includes to sell and to transfer in any other manner, and also includes to offer to supply, to agree to supply, to supply by way of exchange and to supply as a prize or as a gift; but, in the case of fireworks, does not include supplying them otherwise in the course of a business;

“transfer licence” means a transfer licence granted by the Minister under Article 4(1);

“U.N. Serial Number” means a four-digit number devised by the United Nations as a means of identification of types of explosives in accordance with the United Nations Recommendations;

“United Nations Recommendations” means the United Nations Recommendations on the Transport of Dangerous Goods (based on those originally prepared by the United Nations Committee of Experts on the Transport of Dangerous Goods and considered by the Economic and Social Committee of Experts at its 23rd session (Resolution 645G (XXIII) of 26 April 1957)), as revised or reissued from time to time;

“use”, in respect of an explosive, does not mean to import, manufacture, store, supply, move or export;

“user’s licence” means a user’s licence granted by the Minister under Article 4(1);

“vessel” means a vessel as defined in Article 1 of the Harbours (Administration) (Jersey) Law 1961⁵.

2 Meaning of “explosive” and related expressions

- (1) In this Law, unless the context otherwise requires, expressions defined in this Article have the meanings given to them in this Article.
- (2) “Explosive” means –
 - (a) an explosive article or explosive substance, that would, if packaged for transport, be classified in accordance with the United Nations Recommendations as falling within Class 1;
 - (b) an explosive article, or explosive substance, that would be classified in accordance with the United Nations Recommendations as being unduly sensitive or so reactive as to be subject to spontaneous reaction and accordingly too dangerous to transport, and also as falling within Class 1;
 - (c) a desensitized explosive;
 - (d) fireworks; and
 - (e) anything designated as such by an Order under paragraph (9).
- (3) However, “explosive” does not include an explosive substance produced as part of a manufacturing process that thereafter reprocesses it in order to produce a substance or preparation that is not an explosive substance.
- (4) “Explosive article” means an article containing one or more explosive substances.
- (5) “Explosive substance” means a substance or preparation that –
 - (a) is capable by chemical reaction in itself of producing gas at such a temperature and pressure and at such a speed as could cause damage to surroundings; or
 - (b) is designed to produce an effect by heat, light, sound, gas or smoke, or by a combination of them, as a result of a non-detonative, self-sustaining, exothermic chemical reaction.
- (6) However, “explosive substance” does not mean a substance, or preparation, in a solely gaseous form or in the form of vapour.
- (7) “Class 1” means Class 1 in respect of explosives or the classification of dangerous goods as set out in the United Nations Recommendations.

- (8) “Desensitized explosive” means –
- (a) a solid explosive substance that has been wetted with water or alcohol or diluted with one or more other substances; or
 - (b) a liquid explosive substance that has been dissolved or suspended in water or one or more other substances,
- to form a homogeneous mixture so as to suppress its explosive properties and that, without that treatment, would be classified in accordance with the United Nations Recommendations as falling within Class 1.
- (9) Without derogation from the preceding provisions of this Article, the Minister may by Order designate any article, substance or preparation as an explosive for the purposes of this Law, and may do so generally or particularly and for all purposes or for such purposes as may be specified in the Order.

3 Application of Law

- (1) Parts 2, 3, 4, 5, 6, 7 and 8 shall apply to fireworks if and to the extent that the States, by Fireworks Regulations, apply them.
- (2) Except as provided in paragraph (1), Parts 2 to 8 shall not apply to fireworks.
- (3) This Law shall not apply to ammunition as defined in Article 1(1) of the Firearms (Jersey) Law 2000⁶ and to which that Law applies.

4 Minister’s power to grant licences

- (1) The Minister may, on an application duly made by a person who has attained the age of 18 years, grant to the person a licence of any of the following categories –
 - (a) an import licence;
 - (b) a manufacturing licence;
 - (c) a magazine licence;
 - (d) a user’s licence;
 - (e) a transfer licence;
 - (f) a conveyance licence; and
 - (g) an export licence.
- (2) If a form of application is prescribed or approved by the Minister, the application shall be in that form.
- (3) The grant of a licence under this Article may be made on such terms and conditions as the Minister may specify.
- (4) A licence granted on or subject to any terms or conditions –
 - (a) whether imposed under this Article, or prescribed by Order under Article 74(1)(e) or otherwise prescribed or specified under this Law; and

- (b) whether in general or standard form, or as to that licence in particular,
shall contain a statement of those terms and conditions.

5 Reloading powder

- (1) The Minister may by Order authorize, without the making of an application, the storage and use by any person who has attained the age of 17 years of a specified amount of reloading powder not exceeding 4 kg.
- (2) The Minister may by Order –
- (a) provide that a person who has attained the age of 17 years may apply to the Minister for a certificate in writing authorizing the person to store and use, for any of the purposes specified in paragraph (3), a specified amount of reloading powder exceeding 4 kg; and
- (b) provide that applications shall be made in a form prescribed or approved by the Minister.
- (3) The purposes to which paragraph (2) refers are –
- (a) an historical re-enactment;
- (b) a public display; and
- (c) any other public purpose that the Minister specifies in the Order.
- (4) An authorization in an Order made under this Article shall be subject to such conditions (if any) as the Minister may specify in the Order.
- (5) In granting a certificate under an Order made under paragraph (2), the Minister may specify (in addition to such standard conditions, if any, as apply in respect of the certificate) other conditions to which the authorization shall be subject.

6 Matters that the Minister must consider on applications for licences or certificates

- (1) In considering whether or not to grant an application for a licence or certificate, the Minister shall have regard first to the need to ensure public safety.
- (2) The Minister shall also have regard to –
- (a) the fitness and competence of the applicant to hold the licence or certificate for which the application is made;
- (b) the purpose for which the applicant seeks the licence or certificate; and
- (c) each other matter to which the Minister is required by this Law or by Fireworks Regulations to have regard, in respect of a particular category of licence or certificate.
- (3) If the Minister refuses to grant an application for a licence or certificate, or grants it subject to any condition other than a standard condition, the Minister shall state his or her reasons in writing.

7 Fees

If there is a prescribed fee for an application to the Minister under this Law, or under Fireworks Regulations –

- (a) the fee is payable when the application is lodged; and
- (b) the Minister may refuse to consider the application until the fee is paid.

8 Duration of licences and certificates

- (1) If a licence or certificate specifies a date of expiry, it expires at the end of that day.
- (2) If a licence or certificate does not specify a date of expiry, it expires at the end of 31st December in the year in which it is granted.

9 Minister's powers of exemption

- (1) If the Minister is satisfied that, having regard to the nature of the kind of explosive specified –
 - (a) the granting of an exemption will not endanger public safety; and
 - (b) the kind of explosive specified can be adequately regulated for the purposes of this Law by the granting of an exemption on such conditions (if any) as the Minister may specify in the Order,the Minister may by Order exempt explosives of a specified kind from any requirement imposed by or under this Law.
- (2) An exemption in an Order made under this Article shall be subject to such conditions (if any) as the Minister may specify in the Order.
- (3) If the Minister is satisfied that to do so is –
 - (a) in the interests of public safety; or
 - (b) otherwise in the public interest for any other reason,the Minister may in writing exempt a named person who has attained the age of 18 years from any requirement of this Law, or of Fireworks Regulations, for or in respect of a licence or certificate.
- (4) In exercising the discretion conferred by paragraph (3), the Minister shall have regard to the considerations that would apply under paragraphs (1) and (2) of Article 6 if the person were an applicant for the licence or certificate.
- (5) An exemption under paragraph (3) shall be subject to such conditions (if any) as the Minister may specify in the instrument making the exemption.

10 Registers to be kept by certain licensees

- (1) The holder of an import licence, manufacturing licence, magazine licence, user's licence, transfer licence, conveyance licence or export licence shall maintain a register in accordance with this Article.

-
- (2) If a form of register is prescribed, the licensee shall maintain it in that form.
 - (3) If a form of register is not prescribed, the Minister shall approve and publish the form, and the licensee shall maintain it in that form.
 - (4) The register shall state –
 - (a) the name and address of each licensee;
 - (b) the date of each licence;
 - (c) such other details as this Law, or Fireworks Regulations, require to be stated in the register;
 - (d) such other details as may be specified in the prescribed or approved form of register; and
 - (e) such other details as are specified –
 - (i) in relation to an import licence, by Article 18,
 - (ii) in relation to a manufacturing licence, by Article 22,
 - (iii) in relation to a storage licence, by Article 26,
 - (iv) in relation to a user’s licence, by Article 29,
 - (v) in relation to a transfer licence, by Article 32,
 - (vi) in relation to an export licence, by Article 43.
 - (5) The holder of a magazine licence shall maintain a separate register in respect of each magazine at which he or she is authorized by the licence to store explosives.
 - (6) A register shall not be kept at or in a magazine.

PART 2

THE IMPORT OF EXPLOSIVES

11 Licence required for import of explosives

No person shall import an explosive into Jersey except in accordance with an import licence granted to the person by the Minister.

12 Explosives to be imported by sea

No person shall import an explosive into Jersey except by sea.

13 Consultation on import with Minister for Economic Development

Before granting an import licence, the Minister shall consult with the Minister for Economic Development to ensure that adequate arrangements have been made in respect of the unloading and landing of the explosive that is to be imported.

14 Availability of storage facilities for imported explosives

The Minister shall not grant an application for an import licence unless he or she is satisfied that, after the explosive in respect of which it is made is imported and while the explosive remains in the possession of the applicant, it will be stored in an adequate and appropriate facility.

15 Details to be specified in import licence

- (1) An import licence shall specify –
 - (a) the name of the person who is licensed to import the explosive in respect of which it is granted;
 - (b) the descriptions and quantities of the explosives that the licensee may import;
 - (c) the permitted date of import; and
 - (d) such other details as may be prescribed.
- (2) A permitted date of import may be expressed either as a specific date, or as any date falling within a period specified in the import licence.

16 Duration of import licence

An import licence does not authorize the import on more than one occasion of the explosive in respect of which it is granted.

17 Persons to be notified of grant of import licence

Where the Minister grants an import licence to an applicant, the Minister shall send copies of the licence to the following persons –

- (a) the Harbour Master; and
- (b) the Agent of the Impôts.

18 Additional information about imported explosives

The licensee under an import licence shall, in respect of that licence, enter in the register –

- (a) the descriptions and quantities of explosives that the licensee imports into Jersey under the licence;
- (b) the date on which the licensee imports the explosives into Jersey and the place at which the explosives are stored;
- (c) the descriptions and quantities of such of those explosives as the licensee subsequently supplies to another person;
- (d) the name and address of the other person, and the dates on which the licensee supplies the explosives to that person; and
- (e) such other details as may be prescribed by Order.

PART 3**THE MANUFACTURE OF EXPLOSIVES****19 Licence required for manufacture of explosives**

No person shall manufacture an explosive except in accordance with a manufacturing licence granted to the person by the Minister.

20 Availability of storage facilities for manufactured explosives

The Minister shall not grant an application for a manufacturing licence unless satisfied that while the explosive remains in the possession of the applicant, it will be stored in an adequate and appropriate facility.

21 Details to be specified in manufacturing licence

A manufacturing licence shall specify –

- (a) the name of the person who is licensed to manufacture the explosive in respect of which it is granted;
- (b) the descriptions and quantities of explosive that the licensee may manufacture, and the purposes for which they may be manufactured;
- (c) the places at which the licensee may manufacture them, and the periods during which he or she may manufacture them; and
- (d) such other details as may be prescribed.

22 Additional information about manufactured explosives

The licensee under a manufacturing licence shall, in respect of that licence, enter in the register –

- (a) the descriptions and quantities of explosive manufactured under the licence, and the purposes for which they are manufactured;
- (b) the places at which the licensee manufactures the explosive, and the dates on which he or she does so;
- (c) the descriptions and quantities of such explosive as the licensee may subsequently supply to another person;
- (d) the name and address of that other person, and the dates on which the licensee supplies the explosive to that person; and
- (e) such other details as may be prescribed.

PART 4**THE STORAGE OF EXPLOSIVES****23 Licence required for storage of explosives**

- (1) No person shall store an explosive except in a magazine licensed for that purpose.
- (2) No person shall store an explosive in a licensed magazine except in accordance with the terms of the licence granted to the person in respect of that magazine by the Minister.
- (3) This Article does not apply to –
 - (a) a public officer who is authorized in writing for the purposes of this Article by the Minister, and is acting in the course of the officer's duty;
 - (b) the storage of reloading powder in accordance with an Order made under Article 5(1); or
 - (c) the storage of reloading powder in accordance with a certificate granted by the Minister under an Order made under Article 5(2).

24 Suitability of storage facilities

The Minister shall not grant an application for a magazine licence unless satisfied that the facility at which the explosive is stored will be adequate and appropriate for its storage.

25 Details to be specified in magazine licence

A magazine licence shall specify –

- (a) the name of the person who is licensed to store the explosive in respect of which it is granted;
- (b) the descriptions and quantities of, and the purposes for which, the explosive may be stored;
- (c) the places at and the periods for which the licensee may store the explosive; and
- (d) such other details as may be prescribed.

26 Additional information about storage

The licensee under a magazine licence shall, in respect of that licence, enter in the register –

- (a) the descriptions and quantities of explosive stored under the licence, and the purposes for which they are stored;
- (b) the places at which the licensee stores the explosive, and the dates on which explosive is put into storage at those places;

- (c) the descriptions and quantities of such explosive as the licensee may subsequently supply to another person;
- (d) the name and address of that other person, and the dates on which the licensee supplies the explosive to that person;
- (e) such other details as may be prescribed.

PART 5

THE USE OF EXPLOSIVES

27 Licence required for use of explosives

- (1) No person shall use an explosive for any purpose except in accordance with a user's licence granted to the person by the Minister.
- (2) Paragraph (1) does not apply to the use of reloading powder –
 - (a) in accordance with an Order made under Article 5(1);
 - (b) in accordance with a certificate granted by the Minister under an Order made under Article 5(2).

28 Details to be specified in user's licence

A user's licence shall specify –

- (a) the name of the person who is licensed to use the explosive in respect of which it is granted;
- (b) the descriptions and quantities of the explosive which the licensee may use;
- (c) the purposes for which the licensee may use the explosive;
- (d) the places at which, and the dates on or between which, the licensee may use the explosive; and
- (e) such other details as may be prescribed.

29 Additional information about use of explosives

The holder of a user's licence shall enter in the register in respect of the licence –

- (a) the descriptions and quantities of explosive which the licensee uses under the licence; and
- (b) such other details as may be prescribed.

PART 6**THE TRANSFER OF EXPLOSIVES****30 Licence required for transfer of explosives**

- (1) No person shall supply any explosive to another person (“the recipient”) unless the recipient holds a transfer licence granted to the recipient by the Minister.
- (2) No recipient shall –
 - (a) receive any explosive from another person; or
 - (b) obtain possession of any explosive,except in accordance with a transfer licence granted to the recipient by the Minister.
- (3) Paragraphs (1) and (2) do not apply to –
 - (a) the delivery of any explosive to, or to possession of any explosive by, an inspector;
 - (b) the supply of any explosive to, or possession of any explosive by, an importer in accordance with an import licence; or
 - (c) the possession of any explosive by an exporter in accordance with an export licence.
- (4) Paragraphs (1) and (2) do not apply to –
 - (a) the supply of reloading powder to a person who is authorized by an Order made under Article 5(1) to store and use such powder; or
 - (b) the supply of reloading powder to a person who is authorized by a certificate granted by the Minister under an Order made under Article 5(2) to store and use such powder,if the amount supplied on any one occasion does not exceed the amount specified on the face of the authorization.
- (5) Paragraphs (1) and (2) do not apply to the receipt or possession by a person of an amount of reloading powder which he or she is authorized to store and use by –
 - (a) an Order made under Article 5(1); or
 - (b) a certificate granted by the Minister under an Order made under Article 5(2).

31 Details to be specified in transfer licence

A transfer licence shall specify –

- (a) the name of the person who is licensed to acquire the explosives in respect of which it is granted;
- (b) the descriptions and quantities of the explosives that the licensee may acquire;

- (c) the name and address of the person by whom the explosives may be supplied to the licensee; and
- (d) such other details as may be prescribed.

32 Additional information about transfer of explosives

The holder of a transfer licence shall enter in the register in respect of the licence –

- (a) the descriptions and quantities of the explosives that the licensee acquires from another person under the licence;
- (b) the name and address of the person from whom the licensee acquires the explosives, and the date on which the licensee acquires them; and
- (c) such other details as may be prescribed.

PART 7

THE TRANSPORT OF EXPLOSIVES

33 Licence required for transport of explosives

- (1) No person shall transport an explosive, in or through any place to which the public has access, except in accordance with a conveyance licence granted to the person by the Minister.
- (2) Paragraph (1) does not apply to a public officer who is authorized in writing for the purposes of this Article by the Minister, and is acting in the course of the officer's duty.
- (3) Paragraph (1) does not apply to the transport of reloading powder that the person is authorized to store and use –
 - (a) by an Order made under Article 5(1); or
 - (b) by a certificate granted by the Minister under an Order made under Article 5(2),if the person complies with the conditions (if any) of the authorization relating to its transport.
- (4) No person shall transport an explosive on any public service vehicle.
- (5) Where the Minister grants a conveyance licence to an applicant, the Minister shall send copies of the licence to the following persons –
 - (a) the Harbour Master;
 - (b) the Chief Fire Officer of the Fire and Rescue Service;
 - (c) the Chief Officer of the States of Jersey Police Force; and
 - (d) the Connétable of any Parish in or through which the explosive is to be transported pursuant to the licence.

34 Details to be specified in conveyance licence

A conveyance licence shall specify –

- (a) the name of the person who is licensed to transport the explosives in respect of which it is granted;
- (b) the descriptions and quantities of explosive that the licensee may transport;
- (c) the places between which the licensee may transport the explosives, and the routes that he or she shall take in transporting the explosives between those places;
- (d) the dates and times between which the licensee may transport the explosives; and
- (e) such other details as may be prescribed.

35 Warning notices

A person who is transporting an explosive (other than reloading powder in an amount not exceeding 4 kg) on a vehicle in or through any place to which the public has access shall display a sign warning, in the prescribed form and in the prescribed manner, that there is an explosive on the vehicle.

PART 8**THE EXPORT OF EXPLOSIVES****36 Licence required for export of explosives**

No person shall export an explosive from Jersey except in accordance with an export licence granted to the person by the Minister.

37 Explosives to be exported by sea

No person shall export an explosive from Jersey except by sea.

38 Explosives to be returned only to place of origin

- (1) Subject to paragraphs (2) and (3), if an explosive has been imported into Jersey, the only export licence which may be granted by the Minister is a licence authorizing the export of the explosive from Jersey to the source and point of origin of the explosive in its country of origin (“place of origin”).
- (2) If the Minister considers that there are special circumstances, the Minister may grant an export licence authorizing the export of an explosive to a destination other than the place of origin, but in so doing the Minister must state in writing the circumstances and reasons for considering them to be special.

- (3) The restriction in paragraph (1) shall not apply in relation to explosives which are fireworks, in the case of which the Minister may grant an export licence authorizing export from Jersey to any or all of the other Channel Islands.

39 Consultation on export with Minister for Economic Development

Before granting an export licence, the Minister shall consult with the Minister for Economic Development to ensure that adequate arrangements have been made in respect of the loading and shipping of the explosives that are to be exported.

40 Details to be specified in export licence

- (1) An export licence shall specify –
- (a) the name of the person who is licensed to export the explosives in respect of which it is granted;
 - (b) the descriptions and quantities of the explosives that the licensee may export;
 - (c) the permitted date of export;
 - (d) the place to which the licensee may export the explosives;
 - (e) the name and address of the consignee; and
 - (f) such other details as may be prescribed.
- (2) A permitted date of export may be expressed either as a specific date, or as any date falling within a period specified in the export licence.

41 Duration of export licence

An export licence does not authorize the export on more than one occasion of the explosives in respect of which it is granted.

42 Persons to be notified of grant of export licence

Where the Minister grants an export licence to an applicant, the Minister shall send copies of the licence to –

- (a) the Harbour Master; and
- (b) the Agent of the Impôts.

43 Additional information about exported explosives

The holder of an export licence shall enter in the register in respect of the licence –

- (a) the descriptions and quantities of the explosives that the licensee exports from Jersey under the licence;
- (b) the date on which the licensee exports the explosives from Jersey;
- (c) the place to which the licensee exports the explosives;

- (d) the name and address of the consignee; and
- (e) such other details as may be prescribed.

PART 9

FIREWORKS

44 Regulations in respect of fireworks

- (1) The States may by Regulations apply in respect of fireworks, with such modifications (if any) as the Regulations specify, any of the provisions of Parts 2, 3, 4, 5, 6, 7 and 8.
- (2) The States may by Regulations make provision for securing that the risk that the use of fireworks will have any of the consequences specified in paragraph (3) is the minimum risk compatible with their being used.
- (3) The consequences to which paragraph (2) refers are –
 - (a) death of persons or injury, alarm, distress or anxiety to persons;
 - (b) death of animals or injury or distress to animals; and
 - (c) destruction of or damage to property.
- (4) If Fireworks Regulations impose any prohibition or requirement, they may contain –
 - (a) exceptions from the prohibition or requirement; or
 - (b) provision for the granting of dispensations from the prohibition or requirement.
- (5) Fireworks Regulations may make any incidental, supplementary, consequential and transitional provision.
- (6) Articles 45 to 51 do not limit this Article.

45 Restrictions on supply of fireworks to young persons

- (1) Fireworks Regulations may include provision prohibiting persons from supplying fireworks to persons who have not attained the age of 18 years.
- (2) Fireworks Regulations may include provision prohibiting the acquiring or possession of fireworks by persons who have not attained the age of 18 years.

46 Restrictions on occasions of supply and use of fireworks

- (1) Fireworks Regulations may include provision prohibiting persons from supplying, acquiring, possessing or using fireworks of any description specified in the Regulations except during hours and days so specified.
- (2) Fireworks Regulations may include provision prohibiting persons from supplying, exposing for supply, acquiring, possessing or using fireworks of a description specified in the Regulations –

- (a) in places of a description specified in the Regulations; or
- (b) in circumstances specified in the Regulations.

47 Prohibition of supply and possession of certain fireworks

- (1) Fireworks Regulations may include provision –
 - (a) prohibiting persons from supplying fireworks of any description specified in the Regulations; or
 - (b) prohibiting persons from supplying fireworks of any description specified in the Regulations to persons of any description so specified.
- (2) Fireworks Regulations may include provision –
 - (a) prohibiting the acquiring or possession of fireworks of a description specified in the Regulations; or
 - (b) prohibiting the acquiring or possession of fireworks of a description specified in the Regulations, by persons of a description so specified.
- (3) The descriptions of persons that may be specified in Fireworks Regulations by virtue of either of paragraphs (1) and (2) include persons who do not satisfy conditions specified in the Regulations but who comply with any of the requirements specified in paragraph (4).
- (4) The requirements to which paragraph (3) refers are –
 - (a) satisfactory completion of a course of training relating to fireworks and the means of proving the satisfactory completion of such a course;
 - (b) proficiency or experience in the use of fireworks and the means of proving such proficiency or experience; and
 - (c) possession of insurance cover against liability arising from the use of fireworks and the means of proving possession of such cover.

48 Public fireworks displays

- (1) Fireworks Regulations may include provision –
 - (a) requiring persons who propose to operate a public fireworks display of a description specified in the Regulations to make application, in accordance with any provisions which may be made for that purpose by the Regulations, for a licence to do so (a “display licence”) from the Connétable of the Parish in which it is proposed to operate such a display;
 - (b) providing that a Connétable may, on an application duly made for the purpose, grant or refuse a display licence;
 - (c) as to further additional terms and conditions which may be imposed in, or in relation to, the grant of a display licence; and
 - (d) as to any appeal from a decision of a Connétable to grant or refuse a display licence.

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- (2) Fireworks Regulations may include provision prohibiting persons from operating a public fireworks display of a description specified in the Regulations unless –
 - (a) notice of the display has been given in accordance with the Regulations to any authority to which the Regulations require it to be given;
 - (b) any other information relating to the display that is required by the Regulations to be given to any authority has been so given;
 - (c) any fee imposed by any authority in accordance with the Regulations has been paid; or
 - (d) such other conditions relating to the holding of public fireworks displays as are specified in the Regulations have been complied with.
 - (3) Fireworks Regulations may include provision prohibiting persons from operating public fireworks displays of a description specified in the Regulations unless such persons satisfy –
 - (a) any conditions that are specified in the Regulations, and relate to the satisfactory completion of courses of training relating to fireworks and to the means of proving the satisfactory completion of such courses; or
 - (b) any other conditions that are so specified.
 - (4) Fireworks Regulations may include provision prohibiting persons from operating, or assisting in the operation of, public fireworks displays if they have not attained the age of 18 years.
 - (5) In this Article, “public fireworks display” means a fireworks display at which the public, or any section of the public, are present (whether or not they have paid to be present).

49 Licensing of suppliers

- (1) Fireworks Regulations may include provision prohibiting persons of any description specified in the Regulations from supplying, exposing for supply or possessing for supply any fireworks of a description so specified, unless –
 - (a) they are licensed by the relevant Connétable, in accordance with the Regulations; and
 - (b) the fireworks are supplied, exposed for supply or kept at premises that are so licensed.
- (2) The provision that may be contained in Fireworks Regulations by virtue of paragraph (1) includes provision that a person may not be licensed unless any conditions that are specified in the Regulations are satisfied by the person or his employees, or both.
- (3) The conditions to which paragraph (2) refers may include conditions relating to the satisfactory completion of courses, of training about fireworks and the means of proving the satisfactory completion of such courses.

50 Information about fireworks

- (1) Fireworks Regulations may include provision for securing that appropriate information is given in relation to fireworks of any description specified in the Regulations.
- (2) The provision that may be made by virtue of paragraph (1) includes (but is not limited to) provision –
 - (a) requiring that marks, warnings or instructions relating to the fireworks be put on to or accompany the fireworks; or
 - (b) requiring that information specified in the Regulations be given to any person so specified.
- (3) If Fireworks Regulations impose any requirement by virtue of this Article, they may contain provision requiring the keeping of records by any person to whom information is given under the Regulations.

51 Training courses

If Fireworks Regulations specify conditions relating to the satisfactory completion of courses of training about fireworks, they may make provision for such courses to be provided by –

- (a) the Minister;
- (b) bodies established or recognized by the Minister; or
- (c) persons holding qualifications recognized by the Minister.

52 Offences against Fireworks Regulations

Fireworks Regulations may provide –

- (a) that a person who contravenes a particular provision of such Regulations shall be guilty of an offence; and
- (b) that a person who is guilty of such an offence shall be liable to a specified penalty not exceeding in any case imprisonment for a term of 2 years and a fine.

53 Defence in respect of supply to young persons

In proceedings against any person for an offence of contravening a prohibition imposed by Fireworks Regulations by virtue of Article 45(1), it is a defence for that person to show that all reasonable steps were taken, and all due diligence exercised, to establish that the person to whom the fireworks were supplied was not below the age specified in the offence.

PART 10**REVIEWS****54 Variation of licence, certificate or exemption**

- (1) The Minister may vary a licence, certificate or exemption –
 - (a) on the application of the holder; or
 - (b) on the Minister's own behalf.
- (2) Where the Minister proposes on his or her own behalf to vary a licence, certificate or exemption under this Article, the Minister shall serve a notice in writing on the holder.
- (3) The notice shall specify the proposed variation, and inform the holder that he or she may make representations in writing to the Minister in respect of the proposal within 21 days after the notice is served on the holder.
- (4) In determining whether or not to proceed with the proposal, the Minister shall consider all representations so made.
- (5) The Minister need not comply with paragraphs (2), (3) and (4) if the Minister considers that –
 - (a) in the interests of public safety; or
 - (b) in the public interest for any other reason,the variation should have effect immediately.
- (6) A variation shall not take effect before notice in writing of the Minister's decision is served on the holder.
- (7) A variation shall take effect when notice in writing of the Minister's decision is served on the holder, if the Minister does not specify a later date.
- (8) If the Minister does specify a later date, the variation shall take effect on that date.
- (9) If the Minister –
 - (a) refuses to grant an application for the variation of a licence or certificate; or
 - (b) on his or her own behalf varies a licence or certificate,the Minister shall state in writing the reasons for doing so.

55 Revocation of licence, certificate or exemption

- (1) The Minister may revoke a licence, certificate or exemption –
 - (a) on the application of the holder; or
 - (b) on the Minister's own behalf.
- (2) Where the Minister proposes on his or her own behalf to revoke a licence or certificate, the Minister shall serve a notice in writing on the holder.

- (3) The notice shall inform the holder of the proposal that he or she may make representations in writing to the Minister in respect of the proposal within 21 days after the notice is served on the holder.
- (4) In determining whether or not to proceed with the proposal, the Minister shall consider all representations so made.
- (5) The Minister need not comply with paragraphs (2), (3) and (4) if the Minister considers that –
 - (a) in the interests of public safety; or
 - (b) in the public interest for any other reason,the revocation should have effect immediately.
- (6) A revocation shall not take effect before notice in writing of the Minister's decision is served on the holder.
- (7) A revocation shall take effect when notice in writing of the Minister's decision is served on the holder, if the Minister does not specify a later date.
- (8) Where the Minister does specify a later date, the revocation shall take effect on that date.
- (9) If the Minister on his or her own behalf revokes a licence or certificate, the Minister shall state in writing the reasons for doing so.

56 Variation or surrender of licence or certificate

- (1) Within 7 days from the date on which the holder is served with notice in writing of the Minister's decision to vary a licence or certificate under Article 54, the holder shall deliver the licence or certificate to the Minister for the purpose of recording the variation.
- (2) Within 7 days from the date on which the holder is served with notice in writing of the Minister's decision to revoke a licence or certificate under Article 55, the holder shall surrender the licence or certificate to the Minister.

PART 11

APPEALS

57 Rights of appeal

The following persons shall have a right of appeal to the Royal Court –

- (a) an applicant for a licence or certificate, against the refusal of the application;
- (b) an applicant for a licence or certificate, against a condition (other than a standard condition) imposed by the Minister in granting the application;
- (c) a holder of a licence or certificate, against the refusal of an application to vary it;

- (d) a holder of a licence or certificate, against its variation by the Minister on the Minister's own behalf; and
- (e) a holder of a licence or certificate, against its revocation by the Minister on the Minister's own behalf.

58 Time for appealing

- (1) An appeal may be brought within 21 days after the appellant receives a written copy of the decision to which it relates.
- (2) The Royal Court may in any particular case extend the period in which an appeal may be brought.

59 Effect of lodging appeal

Unless the Royal Court so orders, the lodging of an appeal shall not operate to stay the effect, pending the determination of the appeal, of the decision to which the appeal relates.

60 Determination of appeal

- (1) On hearing the appeal, the Royal Court –
 - (a) may confirm, reverse or vary the decision to which the appeal relates; and
 - (b) may make such order as to the costs of the appeal as it thinks fit.
- (2) The decision of the Royal Court shall be final.

PART 12

INSPECTION, ENTRY AND SEIZURE

61 Inspectors

- (1) The Minister may in writing appoint persons as inspectors for the purposes of this Law and of Fireworks Regulations.
- (2) Each officer of the Impôts is, within a harbour or airport, an inspector for the purposes of this Law and of Fireworks Regulations.
- (3) The Minister may in writing designate any inspector for the purposes of Articles 67, 68 and 69.

62 Assistants and equipment

- (1) In the exercise of his or her powers under this Law, an inspector may be accompanied by –
 - (a) such other persons, as assistants; and
 - (b) such motor vehicles, equipment and materials,

as are reasonably necessary for the purpose.

- (2) If an inspector is accompanied by another person under paragraph (1), that other person may exercise any of the inspector's powers under this Law –
 - (a) in the capacity of the inspector's assistant;
 - (b) under the inspector's supervision,and for the purpose for which the power is to be exercised on that occasion.

63 Proof of authority

- (1) An inspector who is seeking to exercise or is exercising his or her powers under this Law or under Fireworks Regulations shall, if so requested, produce to a person affected –
 - (a) where the inspector is appointed in writing by the Minister, a copy of the appointment;
 - (b) where the inspector is an officer of the Impôts, his warrant card or some other proof of his or her appointment;
 - (c) where the inspector is designated in writing for the purposes of Article 67, 68 or 69 by the Minister, a copy of the designation; and
 - (d) where the inspector is acting under the authority of a warrant issued under Article 65, the warrant.
- (2) The inspector shall also, if so requested, state –
 - (a) his or her name; and
 - (b) the power that he or she proposes to exercise or is exercising, and the purpose of its exercise.
- (3) The inspector need not comply with the requirement to disclose the purpose if he or she reasonably believes that to do so would defeat that purpose.
- (4) In this Article, "a person affected" means a person against whom the inspector's power is sought to be exercised, or is exercised, or who would be adversely affected by its exercise.

64 Enforcement powers

- (1) Except as specified in paragraphs (2) and (3), the powers conferred by this Article ("enforcement powers") shall be exercised only under the authority of and in accordance with a warrant issued under Article 65.
- (2) An enforcement power is exercisable without a warrant in an emergency, if the inspector who exercises it reasonably believes –
 - (a) that it is necessary to do so to deal with a situation involving harm, or the risk of harm, to any person or property; and
 - (b) that there is insufficient time to obtain a warrant.
- (3) Where an inspector has entered any magazine or other premises –

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- (a) with the consent of the appropriate person or of the holder of any licence, certificate or exemption granted under this Law in respect of those premises; or
 - (b) under a power of entry conferred by Fireworks Regulations,the inspector may do any of the things listed in paragraph (6) without a warrant, and in such a case paragraphs (8) to (10) shall also apply.
 - (4) An inspector may, for any purpose that is reasonably necessary for the enforcement of this Law, enter and inspect any premises, vehicle, vessel, hovercraft or aircraft to which a licence, certificate or exemption relates.
 - (5) An inspector may, for any purpose that is reasonably necessary for the enforcement of this Law, enter and inspect any premises, vehicle, vessel, hovercraft or aircraft on or in which the inspector has reasonable cause to believe –
 - (a) that there is an explosive; or
 - (b) that an explosive has been or is about to be used.
 - (6) The power to inspect includes (but is not limited to) power to do any of the following things for the purpose of the inspection –
 - (a) to open any container;
 - (b) to take a measurement or carry out a test;
 - (c) to obtain, for analysis, a sample of any substance, article or other thing found on or in the premises, vehicle, vessel, hovercraft or aircraft and, if necessary for the purpose of analysis, to take the sample away;
 - (d) to inspect any document or record;
 - (e) to make a copy of the document or record and, if it is necessary to remove it for that purpose, to take it away temporarily to do so.
 - (7) In an emergency, if an inspector reasonably believes that he or she will be unable to exercise an enforcement power otherwise than by force, the inspector may use reasonable force to do so.
 - (8) If it is practicable to do so, an inspector who obtains a sample shall give to the appropriate person a portion of the sample, marked in a manner sufficient to identify it.
 - (9) An inspector who takes away a sample, document or record shall give a receipt for it in writing to the appropriate person.
 - (10) An inspector who has exercised an enforcement power –
 - (a) shall make a record in writing of doing so; and
 - (b) if so requested by the appropriate person, give that person as soon as reasonably practicable and in any event within 21 days after the request a copy of the record.
 - (11) In this Article “the appropriate person” means the owner, occupier, driver, master, commander or person in charge (as the case may be) of the premises, vehicle, vessel, hovercraft or aircraft.

65 Warrants to enter and inspect premises

- (1) An inspector may apply to the Bailiff or a Jurat for a warrant authorizing the inspector to exercise an enforcement power under Article 64.
- (2) If, on an application under paragraph (1), the Bailiff or Jurat is satisfied that the intended exercise of the power is for a purpose that is reasonably necessary for the enforcement of this Law, he or she may issue a warrant authorizing the inspector to exercise the power.
- (3) The warrant shall specify the purpose for which the power may be exercised, and may limit that purpose and the extent to which the power may be exercised.
- (4) If the Bailiff or Jurat is satisfied that it is probable that the inspector will be unable to exercise the power otherwise than by force, the warrant may authorize the inspector to use reasonable force so exercise the power.
- (5) A warrant issued under this Article authorizes entry and inspection –
 - (a) in the case of residential premises, on not less than 24 hours' notice to the occupier; and
 - (b) in every case, at a time of day that is in any event reasonable.
- (6) Despite paragraph (5), if the Bailiff or Jurat is satisfied that a restriction under that paragraph would defeat the purpose of exercising the power, a warrant may authorize entry and inspection at any time, immediately or on less than 24 hours' notice.
- (7) A warrant shall cease to have force on the expiry of the period of one month after the day on which it is issued.
- (8) In this Article, "satisfied" means satisfied by information on oath.

66 Powers of inspector in respect of documents and information

- (1) An inspector may require a licensee or holder of a certificate or exemption granted under Article 9 to produce it to the inspector for the latter's inspection.
- (2) An inspector may require a licensee to produce his or her register to the inspector for the latter's inspection.
- (3) An inspector may, in the course of exercising an enforcement power under Article 64, require –
 - (a) the licensee or holder of the certificate or exemption;
 - (b) any person in occupation of or employed on the premises concerned; or
 - (c) any person in charge of or employed on or in the vehicle, vessel, hovercraft or aircraft concerned,to provide to an inspector any information specified in paragraph (4).
- (4) Paragraph (3) refers to –
 - (a) information about the premises, vehicle, vessel, hovercraft or aircraft;
 - (b) information about any explosives there; or

- (c) information about any explosive used or to be used there, being information that is reasonably necessary for the enforcement of this Law, or of Fireworks Regulations.
- (5) In making a requirement under any of paragraphs (1), (2) and (3), the inspector shall specify –
 - (a) the period within which the item or information concerned is to be produced or provided (being a period that is reasonable); and
 - (b) the place at which it is to be produced or provided.

67 Surrender of explosives to inspector

- (1) If a person who is in possession of any explosive knows or suspects –
 - (a) that the explosive is defective; and
 - (b) that by reason of its defectiveness it may constitute a danger to persons or property,the person shall as soon as practicable inform any inspector, and surrender the explosive to a designated inspector.
- (2) A person who is in possession of an explosive may at any time of his or her own volition surrender an explosive to a designated inspector.
- (3) A designated inspector shall give a receipt in writing to any person who surrenders an explosive to the inspector under this Article.
- (4) If a person who surrenders an explosive under this Article is a person required under this Law, or under Fireworks Regulations, to maintain a register in respect of the explosive, the person shall enter in the register –
 - (a) the name of the designated inspector; and
 - (b) the date on which the explosive is surrendered.

68 Seizure of explosives

- (1) If a designated inspector reasonably suspects –
 - (a) that an explosive is defective; and
 - (b) that by reason of its defectiveness it may constitute a danger to any person or property,the inspector may seize and detain the explosive.
- (2) If an inspector or a police officer reasonably suspects that an explosive has been or will be dealt with in a way that is contrary to this Law, or to Fireworks Regulations, he or she may seize and detain the explosive.
- (3) An inspector or police officer who seizes and detains an explosive under this Article shall give to the person from whom it is taken a receipt in writing for the explosive.

69 Disposal of defective explosives in urgent cases

If a designated inspector reasonably believes –

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- (a) that an explosive that is surrendered under Article 67, or is seized and detained under Article 68, is defective;
 - (b) that by reason of its defectiveness it may constitute a danger to persons or property; and
 - (c) that the risk of danger is such as to justify its disposal before an application to the Royal Court can be made and determined under Article 70,

the designated inspector may in a safe manner destroy or otherwise dispose of the explosive.

70 Forfeiture of explosive

- (1) If an explosive is surrendered under Article 67, or is seized and detained under Article 68, the Attorney General may on any of the following grounds apply to the Royal Court for an order that the explosive be forfeited to the States, namely –
 - (a) that the explosive is defective, and that by reason of its defectiveness it may constitute a danger to any person or property;
 - (b) that the explosive has been dealt with in a way that is contrary to this Law, or to Fireworks Regulations; or
 - (c) that there are reasonable grounds for believing that, if the explosive had not been seized and detained, it would have been dealt with in a way that is contrary to this Law, or to Fireworks Regulations.
- (2) An application under paragraph (1) shall be made on notice to the owner of the explosive (if known) and to each other person (if known) who has or appears to have an interest in the explosive.
- (3) If the Royal Court is satisfied that the ground on which the application is made is proved, it may order that the explosive be forfeited to the States, and destroyed or disposed of in any other manner that the Minister may think fit.

71 Recovery of disposal costs

If an explosive –

- (a) is destroyed or otherwise disposed of under either of Articles 68 or 69; or
- (b) is forfeited to the States under Article 70,

the Minister may recover in any court of competent jurisdiction, as a civil debt owing to the States by any person who owned or had possession of the explosive at the time of its surrender or seizure, the reasonable costs to the States of its surrender or seizure, its forfeiture and its destruction or other disposal.

72 Offences of obstruction of inspectors; failure to provide information

- (1) A person who without reasonable excuse intentionally obstructs an inspector who is seeking to exercise or is exercising any power of the

inspector under this Law, or under Fireworks Regulations, shall be guilty of an offence.

- (2) A person who without reasonable excuse fails to provide to an inspector, in accordance with a requirement made by the inspector under Article 66(3) or under Fireworks Regulations, any information that it is within his knowledge and power to provide shall be guilty of an offence.
- (3) A person who is convicted of an offence under this Article shall be liable to imprisonment for a term not exceeding 1 year and a fine.

PART 13

GENERAL PROVISIONS

73 Approved codes of practice

- (1) The Minister may by Order approve a code of practice for the guidance of persons handling or using explosives, or any category of explosives, with or without such modifications as the Minister may specify in the Order.
- (2) In any civil or criminal proceedings under this Law, or under Fireworks Regulations –
 - (a) the fact that a person conforms in a material way to an approved code of practice shall be admissible as evidence that the person is conducting himself or herself reasonably in that way; and
 - (b) the fact that a person fails in a material way to conform to an approved code of practice shall be admissible as evidence that the person is not conducting himself or herself reasonably in that way.

74 Orders

- (1) Without derogation from any other provision of this Law or of Fireworks Regulations, the Minister may make Orders in respect of explosives for any of the following purposes of this Law or of such Regulations –
 - (a) prescribing forms of applications;
 - (b) prescribing fees that shall be payable on applications;
 - (c) prescribing forms of licences and certificates;
 - (d) prescribing forms of registers to be maintained by licensees;
 - (e) prescribing conditions that apply to all licences and certificates, or to all licences or certificates of a particular kind;
 - (f) prescribing courses of training and qualifications for persons who manufacture, store, use, supply, transport or otherwise handle explosives;
 - (g) prohibiting or restricting the participation or the unsupervised participation in the manufacture, storage, use, supply, transport or other handling of explosives of persons who do not possess such qualifications or who have not undergone such training or do not possess such qualifications;

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- (h) regulating the unloading and landing of explosives, and the loading and movement of such explosives by land, sea or air;
 - (i) regulating the manufacture, storage and use of explosives;
 - (j) regulating the transporting of explosives within Jersey;
 - (k) prohibiting or restricting the supply of explosives to persons who have not attained the age of 18 years, and the possession and use of explosives by such persons;
 - (l) prohibiting or restricting the use of explosives on or otherwise than on specified days;
 - (m) prohibiting or restricting the use of explosive between or otherwise than between specified hours;
 - (n) providing that a person who contravenes an Order made under this Article shall be guilty of a criminal offence;
 - (o) providing that a person who is guilty of such an offence shall be liable to a specified penalty not exceeding in any case imprisonment for a term of 2 years and a fine;
 - (p) providing for any other matters that are to be or may be prescribed or done under any other provisions of this Law, or of Fireworks Regulations; and
 - (q) providing for such other matters as are reasonably necessary for or incidental to the purpose of carrying this Law, or Fireworks Regulations, into effect.
- (2) An Order prescribing forms of applications for licences, or licences, may amalgamate more than one application, or licence, in one form.
 - (3) For the purposes of this Law and of Fireworks Regulations, a standard condition in respect of a licence or certificate is to be treated as if it were a condition imposed by the Minister in granting the licence or certificate.
 - (4) The powers of the Superior Number of the Royal Court to make Rules under the Royal Court (Jersey) Law 1948⁷ shall include power to make Rules for the purposes of this Law and of Fireworks Regulations.

75 Offences

- (1) A licensee who contravenes any of Articles 10(1), 18, 22, 26, 29, 32 and 43 shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine.
- (2) A person does not commit an offence under paragraph (1) in respect of any act described in paragraph (3).
- (3) Paragraph (2) refers to any act by the person –
 - (a) in the course of his or her employment by another person who is the holder of a licence that authorizes the licensee to do the act; or
 - (b) as an agent of the licensee and acting with his permission.
- (4) A person who contravenes any of Articles 11, 12, 19, 23(1), 23(2), 27(1), 30(1), 30(2), 33(1), 33(4), 36, 37, 68(1) and 68(4) shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine.

- (5) A person who contravenes Article 35 shall be guilty of an offence and liable to a fine not exceeding level 4 on the standard scale.
- (6) A holder of a licence or certificate who contravenes Article 56(1) or 56(2) shall be guilty of an offence and liable to a fine not exceeding level 2 on the standard scale and a further fine not exceeding level 1 on that scale for each day during which the failure (to surrender the licence as required by either of those provisions) continues.
- (7) A holder of a licence or certificate or exemption who without reasonable excuse fails to produce it to an inspector, in accordance with a requirement made by the inspector under Article 67(1), shall be guilty of an offence and liable to a fine of level 3 on the standard scale.
- (8) A licensee who without reasonable excuse fails to produce his or her register to an inspector, in accordance with a requirement made by the inspector under Article 66(2), shall be guilty of an offence and liable to a fine of level 3 on the standard scale.

76 Breach of conditions

A person who contravenes any condition of or in –

- (a) a licence;
- (b) an Order made under either of Articles 5(1) or 9(1);
- (c) a certificate; or
- (d) an exemption,

shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine.

77 False information

A person who in support of an application under this Law, or under Fireworks Regulations, knowingly or recklessly makes a statement that is false or misleading in a material particular shall be guilty of an offence and liable to imprisonment for a term of 2 years and a fine.

78 Offences by bodies corporate etc.

- (1) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –
 - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,

the person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for that offence.

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- (2) Where the affairs of a body corporate are managed by its members, paragraph (1) applies in relation to the acts and defaults of a member in connection with functions of management as if that member were a director of the body corporate.

79 Service of documents

- (1) A document may be served under this Law, or under Fireworks Regulations, in any of the following ways –
- (a) on an individual, by delivering it to him or her personally or by leaving it at his or her proper address or by sending it by recorded delivery post to the person at that address;
 - (b) on a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body;
 - (c) on a partnership, by serving it in accordance with sub-paragraph (a) on a partner or a person having the control or management of the partnership business; or
 - (d) on an unincorporated body or unincorporated association of persons, by serving it in accordance with sub-paragraph (a) on any person having the control or management of its affairs.
- (2) For the purposes of this Article, and of Article 7 of the Interpretation (Jersey) Law 1954⁸ in its application to this Article, the proper address of any person on whom a document is to be served is the person's last known address, except that –
- (a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body; or
 - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.
- (3) In the case of a body incorporated outside Jersey or of a partnership carrying on business outside Jersey, its principal office in Jersey is its principal office for the purposes of this Article.
- (4) Where a person who is to be served under this Law, or under Fireworks Regulations, with any document has specified an address in Jersey other than the person's proper address (as determined in accordance with paragraph (2)) as the one at which the person or someone on his or her behalf will accept service of documents, that address may be treated as the proper address for the purposes of this Article.
- (5) Where a document is to be served under this Law, or under Fireworks Regulations –
- (a) on the owner or person in charge of any land, vehicle, vessel, hovercraft or aircraft; or
 - (b) on the occupier of any land, the driver of a vehicle, the master of a vessel or hovercraft or the commander of an aircraft,
- and after reasonable enquiry he or she cannot be found and his or her name and address cannot be ascertained, and the document relates to the land, vehicle, vessel, hovercraft or aircraft, the document may be served

by delivering it personally to some other responsible person who is or appears to be resident or employed on or in it, or by affixing it (or a copy) conspicuously to any part of the land, vehicle, vessel, hovercraft or aircraft.

- (6) This Article does not apply to any document for which provision for service is made by Rules of Court, but it does not prevent service by any other mode that is permitted by any other enactment or rule of law.

80 Relationship to other enactments

Neither this Law nor Fireworks Regulations relieve any person from an obligation to obtain any licence, authorization, consent or permission that is required by or under any other enactment.

81 Repeal and saving

- (1) The Explosives (Jersey) Law 1970⁹, as far as it applies to explosives other than fireworks, shall be repealed.
- (2) The Explosives (Jersey) Law 1970¹⁰, as far as it applies to fireworks, shall be repealed.
- (3) If, immediately before the commencement of this Law or of Fireworks Regulations, any application is pending under the Explosives (Jersey) Law 1970 for a licence to do any act for which a licence is also required under this Law or under the Regulations, the application shall be treated and determined as an application for a licence under this Law or under the Regulations (as the case may be).
- (4) If, immediately before the commencement of a Part of this Law or of the Fireworks Regulations, a licence under the Explosives (Jersey) Law 1970 is in force authorizing the holder to do any act for which a licence is also required under this Law or under the Regulations, the licence shall continue in force (subject to the other provisions of this Law and of the Regulations, but otherwise according to its tenor) as if it were a licence granted under this Law or under the Regulations (as the case may be).
- (5) In paragraphs (3) and (4), references to the commencement of this Law or of the Fireworks Regulations are to the commencement of the provisions in this Law, or in the Regulations, imposing the requirements concerned.

82 Citation and commencement

- (1) This Law may be cited as the Explosives (Jersey) Law 201-.
- (2) This Law shall come into force on such day or days as the States may by Act appoint, and different dates may be appointed for different provisions and different purposes of this Law.

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- 1* chapter 19.060
 - 2* chapter 24.660
 - 3* chapter 25.200
 - 4* chapter 16.325
 - 5* chapter 19.060
 - 6* chapter 23.200
 - 7* chapter 07.770
 - 8* chapter 15.360
 - 9* L.1/1971 (chapter 23.125)
 - 10* L.1/1971 (chapter 23.125)