

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Public Highways Ordinance, 1967 \***

[CONSOLIDATED TEXT]

### **NOTE**

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\* Recueil d'Ordonnances Tome XV, p. 241; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 (Recueil d'Ordonnances Tome XXIV, p. 162); the Transfer of Functions Ordinance, 1991 (Recueil d'Ordonnances Tome XXV, p. 328); the Public Highways (Amendment) Ordinance, 1993 (Recueil d'Ordonnances Tome XXVI, p. 176); the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996 (No. XXXI of 1996, Recueil d'Ordonnances Tome XXVII, p. 139); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Health and Safety at Work (General) (Guernsey) Ordinance, 1987 (*supra*); the Health and Safety (Fees) Order, 2015 (G.S.I. No. 2 of 2015).

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Public Highways Ordinance, 1967**

### ARRANGEMENT OF SECTIONS

1. Restriction on erection or suspension of structures and objects over public highways.
2. Application for permission to erect or suspend structures or objects over public highway.
3. Grant or refusal of permission.
4. Exemption.
5. Appeals.
6. Penalties.
7. Power to require work to be done.
8. False statements.
9. Interpretation.
10. Citation.

(Made on 29th November, 1967.)

## The Public Highways Ordinance, 1967

THE STATES, in pursuance of their Resolution of the twenty-second day of March, nineteen hundred and sixty-seven, hereby order: –

### Restriction on erection or suspension of structures and objects over public highways.

1. A person shall not, without the permission of the [States [[Committee for Economic Development] or such other committee as the States may by Resolution appoint]] (hereinafter referred to as ["the Committee"]) –

- (a) erect or re-erect or place any immovable structure, or
- (b) fix, suspend or place any overhead beam, rail, pipe, cable, wire or any other object whatsoever,

over and across or over and along any public highway or any part of any such highway.

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### NOTES

*In section 1,*

*the word in the first pair of square brackets was substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987;*

*the words in square brackets within the first pair of square brackets were substituted by the Transfer of Functions Ordinance, 1991, section 4, Schedule 3, paragraph 13, with effect from 31st July, 1991;*

*the words "Committee for Economic Development" in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016;<sup>1</sup>*

*the words "the Committee" in square brackets were substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987.*

*The functions, rights and liabilities of the Commerce and Employment*

*Department and of its Minister or Deputy Minister arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Committee for Economic Development and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 1(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.<sup>2</sup>*

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

*In accordance with the provisions of the Health and Safety (Fees) Order, 2015, with effect from 1st February, 2015, the fees payable to the States for the grant, renewal or variation of the permits therein referred to under or for the purposes of this Ordinance are as contained in article 4 of the 2015 Order.*

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**Application for permission to erect or suspend structures or objects over public highway.**

2. (1) Any person desirous of obtaining permission to do anything referred to in the last preceding section shall make application in that behalf to [the Committee] and such application shall be in such form and accompanied by such information, including specifications, plans and elevations, as [the Committee] may, from time to time, require.

(2) Upon receipt of an application under the provisions of the last preceding subsection, or at any time thereafter, [the Committee] may require an applicant to supply such further information, including further specifications, plans and elevations, as [the Committee] may consider desirable.

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**NOTE**

*In section 2, the words "the Committee" in square brackets, wherever occurring, were substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987.*

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**Grant or refusal of permission.**

3. (1) Upon receipt of an application under the provisions of the last preceding section [the Committee] may either –

*Consolidated text*

- (a) grant the permission applied for,
- (b) refuse such permission,
- (c) grant such permission subject to such conditions as [the Committee] may think it necessary or expedient to impose.

(2) [The Committee] may, from time to time, revoke or vary any condition attached to any permission granted in pursuance of the provisions of the last preceding subsection.

(3) Any permission granted in pursuance of the provisions of this section shall remain valid for one year from the date on which it was granted.

[(4) The Committee may by order prescribe fees to be payable to the States in respect of the grant of such permissions or applications therefor; and, without prejudice to the generality of the Committee's powers under this section, the Committee may refuse an application for a permission in respect of which the prescribed fee has not been paid.

(5) An order of the Committee under this Ordinance –

- (a) may be amended or repealed by a subsequent order hereunder,
- (b) may contain such consequential, incidental, supplementary and transitional provision as may appear to the Committee to be necessary or expedient,
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul it, cease to have effect, but without prejudice to anything done under it or to the making of a new order.]

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**NOTES**

*In section 3,*

*the words "T/the Committee" in square brackets, wherever occurring, were substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987;*

*subsection (4) and subsection (5) were inserted by the Public Highways (Amendment) Ordinance, 1993, section 1, with effect from 11th August, 1993.*

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**Exemption.**

4. Nothing in this Ordinance contained shall apply to the States or to any servant or agent of the States when acting for and on behalf of the States within the course of their employment or agency.

**Appeals.**

5. (1) Any person aggrieved by any decision of [the Committee] under the provisions of section three of this Ordinance may appeal therefrom to the Royal Court sitting as a full Court on the grounds that the decision of [the Committee] was *ultra vires* or was an unreasonable exercise of its powers.

(2) Any appeal under this section shall be instituted by way of summons which shall set out the material facts upon which the appellant relies and which shall be served on [the President] of [the Committee] to show cause why the decision appealed from should not be set aside or varied.

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**NOTES**

*In section 5, the words "the Committee" in square brackets, wherever occurring, were substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987.*

*the words "the President" in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 1(a), with effect from 1st May, 2016.<sup>3</sup>*

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**Penalties.**

6. Any person who contravenes the provisions of section one of this Ordinance or fails to comply with any condition attached to any permission granted in pursuance of the provisions of section three of this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

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**NOTE**

*In section 6, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Power to require work to be done.**

7. (1) Where any person has been convicted in respect of –
- (a) a contravention of section one of this Ordinance,
  - (b) a failure to comply with any condition attached to any permission granted in pursuance of the provisions of section three of this Ordinance,

[the Committee] may apply to the Ordinary Court for an order requiring the person convicted –

- (c) to demolish or carry out structural alterations or improvements to any immovable structure to which the conviction relates as the Ordinary Court may require,
- (d) to re-site or to remove any overhead beam, rail, pipe, cable, wire or any other object whatsoever to which the conviction relates.

(2) If a person in respect of whom an order has been made in pursuance of the provisions of the last preceding subsection fails to comply with the order within such period as the Ordinary Court may direct or within such longer

period as the Ordinary Court may, on his application, allow, [the Committee] may apply to the Ordinary Court for permission to enter the premises concerned and there do such works as may be necessary to give effect to such order and the Ordinary Court after hearing evidence as to the estimated costs of such works may make such order as it deems just and, upon application in that behalf made by [the Committee] after the completion of such works, may order that any expenses reasonably incurred by [the Committee] in carrying out such works shall be recoverable by [the Committee] as a civil debt.

(3) The Ordinary Court shall not make any order under this section unless the person against whom such order is sought has been served by [the Committee] with notice of its intention to apply for such order and unless such person has had a reasonable opportunity of being heard thereon.

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**NOTE**

*In section 7, the words "the Committee" in square brackets, wherever occurring, were substituted by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(6), Schedule 5, with effect from 1st December, 1987.*

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**False statements.**

8. Any person who for the purpose of obtaining any permission in pursuance of the provisions of this Ordinance or in supplying any information which he is required to supply in pursuance of the provisions of this Ordinance, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular or produces or furnishes, or causes or allows to be produced or furnished, any document or information which he knows to be false in a material particular, shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

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**NOTE**

*In section 8, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.*

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**Interpretation.**

9. In this Ordinance, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"**immovable structure**" means any building or structure of whatsoever material or in whatsoever manner constructed and whether permanent or temporary which is, or on erection will become, realty,

"**public highway**" includes any road, street, lane or public place,

"**Ordinary Court**" means the Royal Court sitting as an Ordinary Court.

**Citation.**

10. This Ordinance may be cited as the Public Highways Ordinance, 1967.

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**NOTE**

*The Ordinance was made and came into operation on 29th November, 1967.*

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<sup>1</sup> These words were previously substituted by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 3, Schedule 2, paragraph 22, with effect from 31st October, 1996; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.

<sup>2</sup> The functions, rights and liabilities of the Commerce and Employment Department and its Minister arising under or by virtue of this Ordinance were previously transferred to and vested in them, respectively, from the Board of Industry and its President by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 5, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance; the functions, rights and liabilities of the Board of Industry arising under or by virtue of this Ordinance were previously transferred to it from the States Board of Employment, Industry and Commerce by the Board of Employment, Industry and Commerce (Transfer of Functions) Ordinance, 1996, section 1, Schedule 1, paragraph 23, with effect from 31st October, 1996, subject to the savings and transitional provisions in section 2 of the 1996 Ordinance; the

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functions of the States Board of Employment, Industry and Commerce arising under or by virtue of this Ordinance were transferred to it from the States Labour and Welfare Committee by the Transfer of Functions Ordinance, 1991, section 2, Schedule 2, paragraph 17, with effect from 31st July, 1991, subject to the savings and transitional provisions in section 3 of the 1991 Ordinance; and the functions of the States Labour and Welfare Committee arising under or by virtue of this Ordinance were transferred to it from the States Housing Authority by the Health and Safety at Work (General) (Guernsey) Ordinance, 1987, section 37(2) and 37(3), with effect from 1st December, 1987, subject to the saving and transitional provisions in section 37(4) and 37(5) of the 1987 Ordinance.

<sup>3</sup> These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 5, with effect from 6th May, 2004.