

STATES OF JERSEY

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DRAFT CONSUMER SAFETY (JERSEY) LAW 200

Lodged au Greffe on 5th July 2005
by the Economic Development Committee

STATES GREFFE



Jersey

DRAFT CONSUMER SAFETY (JERSEY) LAW 200

European Convention on Human Rights

The President of the Economic Development Committee has made the following statement –

In the view of the Economic Development Committee the provisions of the Draft Consumer Safety (Jersey) Law 200- are compatible with the Convention Rights.

(Signed) **Deputy F.G. Voisin**

REPORT

Introduction

The Economic Development Committee is continuing with its consumer protection strategy based on the recommendations contained in the “Review of Consumer Protection in Jersey”, published in July 2001. Significant progress will be made through the introduction of the Consumer Safety (Jersey) Law which aims to strengthen protection for consumers from unsafe consumer goods and will replace the outdated Consumer Protection (Jersey) Law 1964. It will introduce a “general safety requirement” for consumer goods which will simplify and allow more flexibility in its application than the 1964 Law. The new draft Law is based on the EU General Product Safety Directive of 2001 and will, for the first time, provide similar consumer protection measures to those found in the United Kingdom and the rest of the European Union. A power to make Safety Orders dealing with specific safety requirements for specific goods is also included, but this is expanded from the provision in the 1964 Law.

The draft Law will introduce three major improvements on what currently exists. Firstly, the draft Law will operate much more efficiently; secondly, it will prevent Jersey being used as a dumping ground for goods which do not meet safety standards in other countries; and thirdly, it will provide formal powers to enforcement officers to ensure that unsafe goods are removed from sale or subject to recall notices.

Currently, the Consumer Protection (Jersey) Law 1964 provides for safety orders to be made in respect of particular products which are required to meet minimum standards of safety. New Committee Orders are required for each product type and this kind of “enabling” law tends to impose an unnecessary burden on limited State resources. It is anticipated that the need to introduce specific safety Orders will be removed apart from in exceptional circumstances. The proposed law will tackle the safety aspects of consumer goods in a much more efficient way. The “general safety requirement” will be imposed on all consumer goods in the supply chain and because many of these products are imported from the U.K. or other parts of the EU, this should mean that the vast majority of reputable traders will already comply with the new safety requirement. However this is not always the case. There have been a number of incidents in recent years where traders have continued to sell consumer goods which do not comply fully with EU safety standards. As mentioned, this draft Law will prevent Jersey being used as a dumping ground for goods which do not meet those safety standards.

A description of each provision appears in the draftsman’s explanatory note. However this report highlights the key elements of the draft Law.

“Consumer goods”

The new draft Law applies only to “consumer goods” and this term is widely defined in Article 2. In paragraph (1) consumer goods are those goods supplied or made available in the course of a commercial activity that are intended for consumers or likely under reasonable circumstances to be used by them. “Supply” is defined widely in Article 1 to go beyond the selling, hiring or lending of goods to cover effectively any provision of them, including as a free gift. “Commercial activity” is also defined there to cover any business, trade or profession. Therefore this draft Law will not cover any goods which are the subject of private sales, for example, goods advertised for sale by private individuals in newspapers.

Consumer goods don’t have to be intended for consumers if they are likely under reasonable circumstances to be used by them; this is known as the migration of products from the professional sector to the consumer market. It is a new requirement introduced into the EU by the 2001 Directive. The reason for it is the current enthusiasm for DIY following the prevalence of TV makeover shows has led to people using things like power tools that aren’t really designed for members of the public but which they can these days readily buy or hire. These goods will now fall within the definition of “consumer goods”.

Also covered, in paragraph (2), are goods made available in the context of providing a service. This would, for example, cover the provision of specialist equipment in a gym, the provision of electrical goods in a hotel bedroom or the supply of supermarket trolleys to shoppers. This is another new requirement from the EU.

In paragraph (3) it is clear that the goods can simply be provided free of charge and it doesn’t matter whether they are new, used, or reconditioned.

Paragraph (4) contains exclusions. The first of these is tobacco because it is in the nature of being an unsafe

product. The other exclusions relate to certain second hand goods; the Law doesn't expect the same standards to apply in the case of antiques and where a trader supplies a product to someone specifically for repair.

Paragraph (5) enables Regulations to alter this definition if there needs to be any adjustment.

“Safe”

Article 3 contains another key definition. When used in the normal way, for the appropriate duration and when installed and maintained properly, goods must not present more than the minimal risk consistent with high levels of consumer protection. So goods do not become unsafe if, after the consumer buys them, he or she uses them inappropriately or if they are kept beyond their reasonable lifespan and they wear out. Nor are goods unsafe if a certain level of risk is inherent in their use. For example, there is an inherent risk of drowning in a child's inflatable garden pool but that does not make it unsafe for the purposes of this draft Law although it must carry appropriate risk warnings.

Under paragraph (2) in assessing safety, account must be taken of the characteristics of the goods, the effect on other goods that may be used in conjunction with them, the presentation of the goods (e.g. instructions for use) and the effect on those who are likely to use them; obviously goods designed for children or elderly people will have higher safety requirements.

Under paragraph (3) goods can still be safe even if you could buy safer ones; knives, for example, vary in their degree of sharpness without breaching this draft Law.

General safety requirement

The general safety requirement (GSR) is in Article 4(1) and needs to be read in the context of the definitions considered above: consumer goods that are supplied have to be safe.

Paragraph (2) deems goods to be safe if they comply with specific requirements, in so far as those requirements cover the goods. For example, there are already Construction and Use requirements that govern the safety of motor vehicles, and if they comply with these they are taken to comply with the GSR.

Paragraph (3) lists the matters to be taken into account in assessing whether consumer goods comply with the GSR and paragraph (4) means that even if the goods appear to comply with all these provisions the Committee can still take action if the goods appear unsafe.

Suppliers

Articles 5 and 6 contain the key requirements on suppliers of goods, the producers and distributors, which terms are defined in Article 1.

Producers

In the Jersey context “producer” is in most cases going to be not the manufacturer but the importer of the goods. In order to be effective the Law has to impose duties on persons who are present in the jurisdiction. If goods are manufactured locally then the producer is the manufacturer, but if the manufacturer is not established in Jersey the producer will be his or her representative, if there is one established in Jersey. But if the manufacturer has no local representative the producer will be the importer. Also included will be anybody else whose business may affect the safety aspects of the goods, for example anyone who assembles goods after they have been imported. So it is important to note that it is not simply the case of the manufacturer being the producer and the retailer being the distributor. The retailer will be the producer if he or she orders the goods from outside the Island rather than via an importer or wholesaler, which is very often the case.

Under Article 5 producers must not supply any consumer goods that are not safe. That sounds an onerous requirement for a retailer, bearing in mind criminal sanctions are imposed and the fact that he or she has limited control over the safety of the goods, but there is a defence of due diligence in Article 28, so in practice a person who has taken all reasonable steps and exercised due diligence to avoid the offence will be exonerated.

The rest of Article 5 is concerned with the producer's responsibility to assess risks and take steps to avoid them. But the duties only exist “within the limits of the producer's activities”, so it will depend on what sort of business the producer has. If he is the manufacturer the duty will obviously be much higher than if he is a retailer.

Distributors

“Distributor” is defined in Article 1 as “any person who is carrying on a commercial activity in the supply chain that does not affect the safety properties of the goods”. This really means anybody who is not a manufacturer so there is obviously some overlap with producer, and distributor will cover all wholesalers and retailers. If there is

no local manufacturer, the business that imports goods and sells them will be both the producer and the distributor.

However, the person has to be in the business of dealing in those goods somewhere along the line before they reach the consumer, i.e. he or she has to be part of the supply chain and that does not include carriers such as those operating a postal service or a haulage business.

The duties on distributors are less onerous than those on producers. There is a general requirement in paragraph (1) to act with due care to help ensure that consumer goods are safe. It is also an offence under paragraph (2) to supply consumer goods where the distributor knows or should have known on the basis of information available and bearing in mind the nature of his business, not to be safe.

There are also duties on distributors in relation to monitoring: passing on information as to risks, keeping the documentation that will enable tracing the origin of the goods and co-operating with action taken by producers and Consumer Safety Inspectors to avoid risks.

Both producers and distributors have general duties to co-operate with the Chief Consumer Safety Inspector by informing him of risks and co-operating on action to avoid risks – see Article 7. Article 8 lists the powers and duties of the Committee in relation to monitoring and surveillance and encouraging voluntary action and good practice. This draft Law contains stringent powers of enforcement but these are always measures of last resort and the vast majority of traders will be regulated by means of support and encouragement.

Safety Orders

Moving away from general product safety, Article 9 contains the power to make Safety Orders, modelled on a provision in the U.K. Consumer Protection Act 1987. The power applies to all goods except those where safety is governed by another enactment. So you wouldn't expect Safety Orders to be used in respect of items such as food or motor vehicles, which have their own comprehensive legislation. Safety Orders are to be used to impose specific requirements on specific goods. Under Article 9(4) it is usual to consult the relevant part of the industry and others who might be affected before making a Safety Order but under paragraph (5) the Committee can make an Order that can only last for up to a year if it needs to act swiftly to protect the public.

Enforcement

Article 10 deals with the appointment of Consumer Safety Inspectors. The existing Inspectors of Weights and Measures (who are the officers of the Trading Standards Service) are automatically appointed though others may be too, and there is a Chief Consumer Safety Inspector and a Deputy Chief Consumer Safety Inspector.

The inspectors are given wide powers of search and seizure in Article 11 and if entry to premises is refused there is power in paragraph (2) to obtain a warrant.

Safety notices

Articles 12-15 are concerned with the various safety notices which inspectors may serve according to the seriousness of the breach of safety.

At the bottom end of the scale, in Article 12, where the inspector thinks that consumer goods could impose risks in certain conditions he or she can serve a notice requiring the goods to be marked with easily comprehensible warnings or for certain conditions to be met before the goods are supplied. If goods could pose risks for certain persons a notice may require warning to be given to those persons (e.g. small parts in toys that could be swallowed by young children).

Article 13 deals with suspension notices. These may be served if the inspector thinks that the goods may not be safe. The effect is to stop the person on whom the notice is served from supplying the goods without the consent of the Committee for as long as the inspector needs to check the safety of the goods.

Article 14 contains the wider powers where the inspector considers that the goods are in fact not safe. In the case of goods that have not yet reached the consumer a prohibition notice will stop them being supplied without the Committee's consent. But where the goods are already on the shelves the inspector has first to take such steps as he or she thinks appropriate to warn consumers of the risks – this often involves the media and/or notices in shops. Then the inspector serves either a withdrawal notice, which requires the person to take all reasonable steps to remove the goods from wherever they might reach a consumer or, as a last resort, a recall notice. This requires the person to take all reasonable steps to recover the goods from the consumer and destroy them. Finally, if there is delay in complying with a withdrawal or recall notice or the steps taken are inadequate, the Committee can step in and withdraw or recall the goods and recover the costs of doing so. These notices will normally be served on

producers and distributors, though they may be served on other persons if they are in possession of the goods, such as a carrier.

Article 15 requires the person on whom the notice is served to be given a reasonable opportunity to make representations or to comply with the notice on a voluntary basis, though these provisions do not apply if it is not expedient – if the goods were very dangerous for example. There are set out the matters that the notice has to contain, in particular, the grounds for serving it, what the person has to do to get it revoked and the fact that there is an appeal. The notice may contain supplementary provisions. It is an offence to contravene a safety notice.

The remaining Articles are also concerned with either enforcement, such as the power to obtain more information, to apply for forfeiture of the goods and the various offences, or more general matters such as appeals, provision for compensation, and there are various miscellaneous provisions. These are explained in the draftsman's accompanying note.

The requirements of the proposed legislation do not impose increased burdens on reputable businesses. A public consultation was undertaken from September to November 2004 which was targeted particularly at the wholesale/retail sector in the Island. All who took the trouble to respond to the consultation in writing were supportive of the new law.

Financial and manpower implications

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

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 will, when brought into force by Act of the States, require the Committee in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). Although the Human Rights (Jersey) Law 2000 is not yet in force, on 30th June 2005 the Economic Development Committee made the following statement before Second Reading of this projet in the States Assembly –

In the view of the Economic Development Committee the provisions of the Draft Consumer Safety (Jersey) Law 200- are compatible with the Convention Rights.

Explanatory Note

This Law will replace the Consumer Protection (Jersey) Law 1964 with new and wider provisions based on EU Directive 2001/95/EC of 3 December 2001 on general product safety and the parts of the U.K. Consumer Protection Act 1987 that are concerned with the making of Orders governing the safety of specific goods. The aim is to protect consumers by preventing the supply of consumer goods that are not safe.

Part 1 deals with interpretation and provides definitions, most notably of “consumer goods”, “distributor”, “producer”, “safe” and “supply”. “Consumer goods” are defined in *Article 2*. The legislation aims to catch goods that are intended for consumers or likely to be used by them, including where the supply of the goods is in the context of providing a service. There are exemptions in the case of tobacco and second hand goods supplied as antiques or for repair or reconditioning. The definition of “safe” in *Article 3* is very detailed and refers to there being no more than the minimum risk compatible with normal use considered as acceptable and consistent with a high level of protection for the health and safety of persons. Other definitions are in *Article 1*. “Supply” is widely defined to include any sort of commercial provision of the goods, for example hiring them out or giving them as a gift. “Producer” covers the manufacturer, or if the manufacturer is not in Jersey, the manufacturer’s Jersey representative or if none, the importer, and any other business that may affect the safety properties of the goods. “Distributor” is one whose business involves the supply of the goods (as opposed a business of merely carrying goods on behalf of another such as a postal service or haulage contractor). A distributor’s activities do not affect the safety properties of the goods, for example a wholesalers or retailer (though these businesses may also come with the definition of producer if they mark the goods as their own or import the goods from a manufacturer who has no local representation).

Part 2 governs the safety of consumer goods, both general provisions governing all such goods and power to make specific provision by Order. *Article 4* introduces the requirement for all consumer goods that are supplied to be safe - the general safety requirement - and specifies matters to be taken into account in assessing whether the goods satisfy this requirement. If there are other provisions governing the safety of certain goods and the goods comply with those they are taken to comply with the general safety requirement so far as concerns the matters governed by those other provisions. There are also specific obligations imposed on producers (*Article 5*) and distributors (*Article 6*) to ensure that consumer goods are safe. Producers and distributors (known collectively as “suppliers”) have an obligation to co-operate with the Chief Consumer Safety Inspector (*Article 7*). The functions of the Economic Development Committee are set out in *Article 8* and include monitoring suppliers, encouraging them to take voluntary action and developing codes of good practice.

If more specific safety requirements are needed the Law confers power on the Committee to issue *Safety Orders*, containing provisions intended to ensure that particular consumer goods are safe (*Article 9*).

Part 3 deals with enforcement. *Article 10* makes provision for the appointment of consumer safety inspectors and *Article 11* gives the inspectors wide powers to enter premises, inspect, sample or seize and detain goods, ask questions and make other investigation. In appropriate cases a warrant may be issued. It is an offence punishable by a fine not exceeding level 4 on the standard scale and/or imprisonment for up to 6 months to pretend to be an inspector.

This Part sets out the various courses of action that a consumer safety inspector may take with respect to consumer goods, which involve the issue of a range of notices, known collectively as “safety notices”. If the inspector considers that the goods may pose certain risks, the inspector may issue a notice requiring them to be marked with a warning, requiring certain conditions to be satisfied before the goods are supplied or requiring warning to be given to certain persons at risk (*Article 12*). An inspector may issue a suspension notice if the inspector considers that consumer goods may not be safe and the inspector wants to carry out safety checks. The effect of a suspension notice is to suspend the supplier from supplying the goods for a specified period without the consent of the Committee (*Article 13*).

If the inspector considers that goods are not safe and they have not yet been supplied the inspector may serve on the supplier a prohibition notice prohibiting their supply. Where goods have already been supplied a withdrawal notice may be served, requiring the supplier to take all reasonable steps to remove the goods from supply, or, if no other steps would be sufficient to protect consumers, a recall notice requiring the supplier to recover the goods from consumers and destroy them (*Article 14*). There is power for the Committee to withdraw or recall goods

itself in the event of delay or insufficient steps being taken by the supplier. The requirements concerning all safety notices are set out in *Article 15*. There generally has to be an opportunity for the person concerned to make representation or comply on a voluntary basis and the notice has to identify the goods, the grounds on which it is served and the rights to appeal against the notice. Contravention of a notice is punishable by means of a fine not exceeding level 4 on the standard scale and/or imprisonment for a term not exceeding 6 months.

Article 16 enables the Committee to obtain information in order to decide whether a Safety Order or a notice is needed.

Article 17 empowers customs officers to seize and detain imported consumer goods in order to facilitate enforcement of the Law and there is provision for the exportation of goods to be prohibited.

Article 18 enables the Committee to apply to the court for a forfeiture order if a safety provision has been contravened.

It is an offence to contravene the provisions of *Articles 5-7* or any requirement of a Safety Order, or to make a false statement with respect to information required by a Safety Order, punishable by a fine and/or imprisonment for up to 6 months (*Article 19*). *Article 20* creates the offence of obstructing an inspector or customs officer punishable by a fine not exceeding level 4 on the standard scale and/or imprisonment for a term of up to 6 months.

Article 21 provides for an appeal to the Royal Court by a person who has an interest in any goods that are the subject of a notice. There is provision for an appeal against the detention of goods under *Article 22* and *Article 23* provides for compensation for wrongful seizure and detention or where a notice under *Article 14* has been wrongfully served.

Article 24 empowers the court in certain circumstances to order the wrongdoer to reimburse the Committee for expenses incurred in connection with the forfeiture of goods.

Part 4 contains miscellaneous provisions. *Articles 25-27* are concerned with the disclosure of information by the Agent of the Impôts and the Committee, and provisions restricting disclosure. *Article 28* provides that it shall be a defence for any person charged with an offence under the Law to show that the person took all reasonable steps and exercised all due diligence to avoid committing the offence. *Article 29* provides for the liability of persons other than principal offenders and *Article 30* governs the interface between this Law and other civil liability. Service of documents is governed by *Article 31* and *Article 32* preserves certain privileges relating to disclosure of records. The general order-making powers are in *Article 33*.

Article 34 repeals the Consumer Protection (Jersey) Law 1964. *Article 35* and the Schedule provide for amendments to the Law consequential upon the move to Ministerial government and *Article 36* contains the citation and commencement provisions.

Under the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993, the standard scale of fines is—

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



Jersey

DRAFT CONSUMER SAFETY (JERSEY) LAW 200

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Jersey

CONSUMER SAFETY (JERSEY) LAW 200

A LAW to protect consumers from goods that are not safe 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

PRELIMINARY

1 Interpretation

(1) In this Law, unless the context otherwise requires –

“Committee” means the Economic Development Committee;

“commercial activity” includes any business, trade or professional activity and any activity of a professional or trade association, whether or not any of these activities are carried on for the purpose of profit;

“consumer” means a consumer acting otherwise than in the course of a commercial activity;

“consumer safety inspector” has the meaning assigned by Article 10;

“customs officer” means the Agent of the Impôts or any other officer of the Impôts;

“distributor” means any person who is carrying on a commercial activity in the supply chain that does not affect the safety properties of goods;

“general safety requirement” means the requirement in Article 4(1);

“information” includes accounts, estimates and returns;

“personal injury” includes any disease and any other impairment of a person’s physical or mental condition;

“premises” includes any place and any ship, aircraft or vehicle;

“prescribed” means prescribed by Order made by the Committee;

“producer” means –

(a) if the manufacturer of consumer goods is established in Jersey, that manufacturer and any person who –

- (i) presents himself or herself as the manufacturer by affixing to those goods his or her name, trade mark or other distinctive mark, or
- (ii) reconditions the goods;
- (b) if the manufacturer of consumer goods is not established in Jersey –
 - (i) if the manufacturer has a representative established in Jersey, that representative, or
 - (ii) in any other case, the importer of the goods, and
- (c) any other person carrying on a commercial activity in the supply chain insofar as that activity may affect the safety properties of any consumer goods supplied;

“recall” means a measure aimed at achieving the return of goods already supplied that are not safe;

“records” includes any books or documents and any records in non-documentary form;

“safety notice” means a notice mentioned in Article 12, 13 or 14;

“Safety Order” means an Order made under Article 9;

“safety provision” means –

- (a) the general safety requirement;
- (b) any requirement of Article 5 or 6; or
- (c) any provision of a Safety Order or a safety notice;

“supplier” means producer or distributor;

“supply” in relation to goods means doing any of the following in the course of a commercial activity –

- (a) selling, hiring out or lending the goods;
- (b) entering into a hire-purchase agreement to furnish the goods;
- (c) the performance of any contract for work and materials to furnish the goods;
- (d) providing the goods in exchange for anything of value other than money;
- (e) providing the goods in or in connection with the performance of any statutory function; or
- (f) giving the goods as a prize or otherwise making a gift of the goods,

and also means any offer, agreement, exposure or possession for the purposes of supply;

“tobacco” includes any product of the tobacco plant or any substance used as a substitute for tobacco;

“withdrawal” means a measure aimed at preventing the supply or distribution of unsafe goods to the consumer.

- (2) Unless the context otherwise requires, references in this Law to a contravention of a safety provision shall, in relation to any goods, include references to anything that would constitute such a contravention if the goods were supplied to any person.
- (3) References in this Law to any goods in relation to which any safety provision has been or may have been contravened shall include references to any goods that it is not reasonably practicable to separate from any such goods.

2 Meaning of “consumer goods”

- (1) In this Law “consumer goods” means any goods supplied or made available in the course of a commercial activity that are intended for consumers or likely under reasonably foreseeable circumstances conditions to be used by them even if not intended for them.
- (2) Goods are consumer goods if they are made available in the context of providing a service.
- (3) It is immaterial whether or not the goods are supplied or made available in exchange for anything of

value and whether they are new, used or reconditioned.

- (4) The following are not consumer goods –
 - (a) tobacco;
 - (b) second-hand goods supplied as antiques; and
 - (c) second-hand goods supplied for the purpose of repair or reconditioning before being used, provided that the supplier notifies the person supplied with the goods that they are for that purpose.
- (5) The States may, by Regulations, for any or all of the purposes of this Law, extend or restrict this definition.

3 Meaning of “safe”

- (1) In this Law “safe”, in relation to any consumer goods, means that under normal or reasonably foreseeable conditions of use, including –
 - (a) duration; and
 - (b) where applicable, putting the goods into service or their installation and maintenance requirements,

the goods do not present any risk or only the minimum risks compatible with the use of the goods, such risks being considered as acceptable and consistent with a high level of protection for the safety and health of persons.
- (2) In assessing whether or not consumer goods are safe, account shall be taken in particular –
 - (a) the characteristics of the goods including their composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;
 - (b) the effect on other goods, where it is reasonably foreseeable that they will be used with the goods;
 - (c) the presentation of the goods, the labelling, any warnings and instructions for use and disposal and any other indication or information regarding the goods; and
 - (d) the categories of consumers at risk when using the goods, in particular children and the elderly.
- (3) The fact that higher levels of safety may be obtained or other goods presenting a lesser degree of risk may be available shall not of itself cause the goods not to be considered safe.

PART 2

SAFETY

4 The general safety requirement

- (1) Any consumer goods that are supplied must be safe.
- (2) If consumer goods comply with the requirements of any other enactment or any Safety Order that must be satisfied in order for the goods to be supplied, the goods are regarded as safe in respect of the matters covered by those requirements.
- (3) In circumstances other than those referred to in paragraph (2), whether consumer goods comply with the general safety requirement shall be assessed by taking into account –
 - (a) any safety requirements of the law of the United Kingdom or the European Communities;
 - (b) any voluntary standards of safety established in Jersey;
 - (c) any voluntary national standards of the United Kingdom, including those giving effect to a European standard;

- (d) any recommendations of the European Commission setting guidelines on the safety of goods;
 - (e) any codes of good practice in respect of safety in the sector concerned with those goods;
 - (f) the state of the art and technology; and
 - (g) reasonable consumer expectations concerning safety.
- (4) The fact that consumer goods comply with criteria designed to ensure that the general safety requirement is met, in particular the provisions mentioned in paragraphs (2) and (3), does not prevent the Committee or a consumer safety inspector taking any measure considered appropriate to restrict the supply of, or require the withdrawal or recall of, the goods if there is evidence that, despite such compliance, the goods are not safe.

5 Duties of producers

- (1) A producer must not supply any consumer goods that are not safe.
- (2) Within the limits of his or her activities, a producer must provide consumers with the relevant information to enable them –
 - (a) to assess the risks inherent in any consumer goods throughout the normal or reasonably foreseeable period of their use where any such risks are not immediately obvious without adequate warnings; and
 - (b) to take precautions against the risk.
- (3) The presence of warnings does not exempt any person from compliance with the other requirements of this Law.
- (4) Within the limits of his or her activities, a producer must adopt such measures commensurate with the characteristics of the consumer goods that he or she supplies as will enable him or her to –
 - (a) be informed of risks that the goods might impose; and
 - (b) take appropriate action including, if necessary to avoid such risks, withdrawal from supply, adequately and effectively warning consumers of the risks or, if other measures would not be sufficient to protect consumers, recall of the goods.
- (5) The measures referred to in paragraph (4) must include whenever appropriate–
 - (a) marking the goods or batches of goods so that they can be identified;
 - (b) sample testing of marketed goods;
 - (c) investigating, and keeping a register of, complaints; and
 - (d) keeping distributors informed of such monitoring.

6 Duties of distributors

- (1) A distributor must act with due care to help ensure that consumer goods are safe.
- (2) A distributor must not supply consumer goods that he or she knows, or should have presumed on the basis of the information in his or her possession and as a professional, not to be safe.
- (3) Within the limits of his or her activities a distributor must participate in monitoring the safety of consumer goods supplied, in particular by –
 - (a) passing on information on risks posed by the goods;
 - (b) keeping and providing the documentation necessary for tracing the origin of goods; and
 - (c) co-operating efficiently in the action taken by a producer or by a consumer safety inspector to avoid those risks.

7 Co-operation with Chief Consumer Safety Inspector

- (1) If a supplier knows that he or she has supplied consumer goods that pose risks to the consumer that are incompatible with the general safety requirement, the supplier must forthwith inform the Chief Consumer Safety Inspector and give details of the action that he or she proposes to take to prevent risk to the consumer.
- (2) A supplier must, within the limits of his or her activities and where so requested by the Chief Consumer Safety Inspector, cooperate with the Inspector in such manner as the Inspector may request, on action taken to avoid the risks posed by consumer goods that the supplier supplies or has supplied.

8 Functions of the Committee

- (1) The Committee shall have such powers as are necessary to –
 - (a) ensure that suppliers meet their obligations in such a way as to comply with the general safety requirement; and
 - (b) monitor the compliance of consumer goods with the general safety requirement.
- (2) In carrying out its functions under this Law, the Committee –
 - (a) shall take such measures prescribed by this Law as are proportional to the seriousness of the risk;
 - (b) may establish procedures for dialogue with suppliers on issues relating to the safety of consumer goods;
 - (c) may encourage and promote voluntary action by suppliers; and
 - (d) may develop codes of good practice.
- (3) The Committee may take such steps as the Committee considers appropriate to ensure a high level of consumer health and safety protection, including –
 - (a) market surveillance and monitoring;
 - (b) follow-up and updating of scientific and technical knowledge;
 - (c) periodical review and assessment of its activities and their effectiveness in pursuance of its functions under this Law; and
 - (d) the consideration of any complaints made to the Committee concerning the safety of goods and any of its activities in pursuance of its functions under this Law.

9 Safety Orders

- (1) The Committee may make Orders, to be known as Safety Orders, for the purpose of securing –
 - (a) that goods to which this Article applies are safe;
 - (b) that goods to which this Article applies that are not safe, or would not be safe in the hands of persons of a particular description, are not made available to persons generally or, as the case may be, to persons of that description; and
 - (c) that appropriate information is provided, and inappropriate information is not provided, in relation to goods to which this Article applies.
- (2) Without prejudice to the generality of paragraph (1), a Safety Order may contain provision–
 - (a) with respect to the composition or contents, design, construction, finish or packing of goods to which this Article applies, with respect to standards for such goods and with respect to other matters relating to such goods;
 - (b) with respect to the giving, refusal, alteration or cancellation of approvals of such goods, of descriptions of such goods or of standards for such goods;
 - (c) with respect to the conditions that may be attached to any approval given under the Order;

- (d) for requiring such fees as may be determined by or under the Order to be paid on the giving or alteration of any approval under the Order and on the making of an application for such an approval or alteration;
 - (e) with respect to appeals against refusals, alterations and cancellations of approvals given under the Order and against the conditions contained in such approvals;
 - (f) for requiring goods to which this Article applies to be approved under the Order or to conform to the requirements of the Order or to descriptions or standards specified in or approved by or under the Order;
 - (g) with respect to the testing or inspection of goods to which this Article applies, including provision for determining the standards;
 - (h) with respect to the ways of dealing with goods of which some or all do not satisfy a test required by or under the Order or a standard connected with a procedure so required;
 - (i) for requiring a mark, warning or instruction or any other information relating to goods to be put on or to accompany the goods or to be used or provided in some other manner in relation to the goods, and for securing that inappropriate information is not given in relation to goods either by means of misleading marks or otherwise;
 - (j) for prohibiting persons from supplying goods to which this Article applies and component parts and raw materials for such goods; and
 - (k) for requiring information to be given to any such person as may be determined by or under the Order for the purpose of enabling that person to exercise any function conferred on the person by the Order.
- (3) A Safety Order may also contain provision –
- (a) for requiring consumer safety inspectors to have regard, in exercising their functions in relation to any provision of the Safety Order, to matters specified in a direction issued by the Committee with respect to that provision;
 - (b) that a person is not guilty of an offence of contravening any requirement of a Safety Order unless it is shown that the goods in question do not conform to a particular standard; and
 - (c) for determining the persons by whom, and the manner in which, anything required to be done by or under the order is to be done.
- (4) Before making a Safety Order the Committee shall consult –
- (a) such organisations as appear to the Committee to be representative of interests substantially affected by the proposal; and
 - (b) such other persons as the Committee considers appropriate.
- (5) However, paragraph (4) does not apply if –
- (a) the Committee considers that in order to protect the public the Order should be made without delay; and
 - (b) the Order provides for it to cease to have effect within 12 months of its commencement.
- (6) This Article applies to all consumer goods except goods all aspects of the safety of which are governed by any other enactment.

PART 3

ENFORCEMENT

10 Appointment of consumer safety inspectors

- (1) Every person appointed pursuant to Article 2 of the Weights and Measures (Jersey) Law 1967^[1]

shall, by virtue of such appointment, be a consumer safety inspector.

- (2) The Committee may appoint such other persons to be consumer safety inspectors as the Committee thinks fit.
- (3) The persons appointed pursuant to Article 2 of the Weights and Measures (Jersey) Law 1967 as the Chief Inspector of Weights and Measures and Deputy Chief Inspector of Weights and Measures shall, by virtue of such appointment, be the Chief Consumer Safety Inspector and the Deputy Chief Consumer Safety Inspector respectively.

11 Powers of consumer safety inspectors

- (1) A consumer safety inspector may, for the purposes of carrying out any of the functions of the Committee under this Law and subject to the production if so required, of evidence of the inspector's authority, at any reasonable time enter any premises (other than premises used only as a dwelling) –
 - (a) to ascertain whether there has been any contravention of any safety provision;
 - (b) to make such examination and investigation as may in the circumstances be necessary;
 - (c) to inspect any goods for the purpose of ascertaining whether there has been any contravention of any safety provision and, if the inspector considers appropriate, to purchase, take sample of or seize and detain any goods for the purposes of subjecting them to safety checks;
 - (d) to direct that any goods in the premises shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation;
 - (e) to take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any examination or investigation;
 - (f) to require any person whom the inspector has reasonable cause to believe to be able to give any information relevant to any examination or investigation to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of the answers;
 - (g) to require the production of, inspect, and take copies of or of any entry in –
 - (i) any books or documents that are required to be kept by virtue of any of the relevant statutory provisions, and
 - (ii) any other books or documents that it is necessary for the inspector to see for the purposes of any examination or investigation;
 - (h) to require any person to afford the inspector such reasonable facilities and reasonable assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on the inspector by this Article; and
 - (i) to exercise any other power which is necessary for the purpose of this Article.
- (2) If the Bailiff or a Jurat is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (1) and either –
 - (a) that admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier; or
 - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,

the Bailiff or Jurat, as the case may be, may issue a warrant, which shall continue in force for a period of one month, authorizing an inspector to enter the premises for that purpose, if need be by reasonable force.

- (3) An inspector entering any premises by virtue of this Article may –
 - (a) be accompanied by such other persons as the inspector considers necessary to give adequate assistance; and
 - (b) take along any equipment or materials required for any purpose for which the power of entry is being exercised.
- (4) If the premises are unoccupied the inspector shall leave them as effectively secured against unauthorized entry as they were prior to entry.
- (5) A person who is not an inspector who purports to act as such is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.

12 Action in respect of consumer goods that may pose risks

- (1) If a consumer safety inspector has reasonable grounds for suspecting that any consumer goods could pose risks in certain conditions, the inspector may serve on any person either or both of the following notices –
 - (a) a notice requiring the person to mark the goods with suitable and easily comprehensible warnings of the risks; or
 - (b) a notice requiring such conditions as the inspector considers would ensure that the goods are safe, and which are specified in the notice, are met prior to the goods being supplied.
- (2) If a consumer safety inspector has reasonable grounds for suspecting that any consumer goods could pose risks for certain persons, the inspector may serve a notice on any person requiring the person to give warning to those persons of the risk in good time and in such form as the inspector may specify.

13 Action in respect of consumer goods that may not be safe

- (1) If a consumer safety inspector considers that any consumer goods may not be safe, the inspector may serve on any person a suspension notice.
- (2) A suspension notice suspends the person on whom it is served for the period specified in the notice from supplying the goods without the consent of the Committee for such period as is specified in the notice, which period shall not exceed the period needed for the consumer safety inspector to check the safety of the goods.

14 Action in respect of consumer goods that are not safe

- (1) If a consumer safety inspector considers that any consumer goods are not safe, the inspector may –
 - (a) in the case of goods not yet supplied to the consumer, serve on any person a prohibition notice; and
 - (b) in the case of goods that have been supplied to the consumer –
 - (i) take such steps as the inspector considers are appropriate to warn consumers of the risks, and
 - (ii) serve on any person a withdrawal notice and, if no other steps would be sufficient to protect consumers, a recall notice.
- (2) A prohibition notice prohibits the person on whom it is served from supplying the goods without the consent of the Committee.
- (3) A withdrawal notice requires the person on whom it is served to take all reasonable steps to remove the goods concerned from any place where they may be supplied to a consumer.
- (4) A recall notice requires the person on whom it is served to take all reasonable steps to recover the goods from the consumer and destroy them.

- (5) If the Committee considers that there has been undue delay in complying with a withdrawal notice or a recall notice, or that the steps taken to comply with the notice are not sufficient, the Committee may take such action as the Committee considers appropriate to withdraw or recall the goods and the costs of such action are recoverable as a debt against the person on whom the notice was served.

15 General provisions affecting safety notices

- (1) Before serving a safety notice a consumer safety inspector shall afford the person on whom it is served a reasonable opportunity to make representations or to comply with the matters set out in the notice on a voluntary basis unless it is in the circumstances not expedient to do so.
- (2) A safety notice shall –
 - (a) describe the goods to which it relates in a manner sufficient to identify them;
 - (b) set out the grounds on which it has been served and any steps to be taken that will result in the revocation of the notice; and
 - (c) state that, and the manner in which, the person may appeal against the notice in accordance with Article 21.
- (3) A safety notice may contain such supplementary conditions or requirements as the Committee considers appropriate.
- (4) A person who contravenes a safety notice is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.

16 Power to obtain information

- (1) If the Committee considers that in order to decide whether –
 - (a) to make, vary or revoke a safety order; or
 - (b) a safety notice should be served, varied or revoked,further information is required that another person is likely to be able to furnish, the Committee may serve an information notice on that person.
- (2) An information notice may require the person –
 - (a) to furnish to the Committee, within a period specified in the notice, such information as is specified; and
 - (b) to produce such records as are specified in the notice at a time and place so specified and to permit a consumer safety inspector to take copies of the records at that time and place.
- (3) A person who –
 - (a) without reasonable cause contravenes an information notice served on the person; or
 - (b) in purporting to comply with a requirement that by virtue of paragraph (2)(a) is contained in such a notice –
 - (i) furnishes information that the person knows is false in a material particular, or
 - (ii) recklessly furnishes information that is false in a material particular,is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.

17 Power of customs officer to seize and detain goods

- (1) A customs officer may, for the purpose of facilitating the exercise by the Committee or a consumer safety inspector of any function conferred on either of them by or under this Law, seize any imported consumer goods and detain them for not more than 2 working days.

- (2) Any goods seized and detained under this Article shall be dealt with during the period of their detention in such manner as the Agent of the Impôts may direct.
- (3) If the Agent of the Impôts so directs, goods seized and detained under this Article shall be treated as if their exportation had been prohibited in accordance with an Order made under Article 19 of the Customs and Excise (Jersey) Law 1999^[2]
- (4) In paragraph (1)“2 working days” means the period of 48 hours calculated from the time when the goods in question are seized but disregarding any Saturday or Sunday, Christmas Day, Good Friday or a day appointed as a public holiday or bank holiday under the Public Holidays and Bank Holidays (Jersey) Law 1951^[3]

18 Forfeiture

- (1) The Committee may apply to the Royal Court for an order for the forfeiture of any goods on the grounds that there has been a contravention of a safety provision in respect of those goods.
- (2) The Committee shall serve a copy of the application on any person appearing to the Committee to be the owner of, or otherwise to have an interest in, the goods together with a notice advising the person of his or her rights under paragraph (3).
- (3) Any person on whom notice is served under paragraph (2) and any other person claiming to be the owner of, or otherwise to have an interest in, the goods is entitled to appear at the hearing of the application and make representation as to why the goods should not be forfeited.
- (4) The Court may infer for the purposes of this Article that there has been a contravention of a safety provision in relation to any goods if it is satisfied that any such provision has been contravened in relation to goods that are representative of those goods, whether by reason of being of the same design or part of the same consignment or batch or otherwise.
- (5) Where it is satisfied that there has been a contravention of a safety provision in relation to any goods the Court shall order the goods to be forfeited.
- (6) If any goods are forfeited under this Article, the Court shall –
 - (a) order their destruction in accordance with any directions it may give; or
 - (b) direct that they be released to such person as the Court may specify on condition that that person –
 - (i) does not supply those goods to any person other than to a person carrying on the commercial activity of buying goods of that description and repairing or reconditioning them or to any person as scrap, and
 - (ii) complies with any order to pay costs or expenses, including any order under Article 24 that has been made against that person in the proceedings for the order for forfeiture.

19 Offences

A person who –

- (a) contravenes any provision of Articles 5, 6 or 7;
- (b) contravenes any requirement of a Safety Order; or
- (c) in giving any information that a Safety Order requires the person to give –
 - (i) makes a statement that he or she knows to be false in a material particular, or
 - (ii) recklessly makes a statement that is false in a material particular,is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 4 on the standard scale.

20 Obstruction

- (1) A person who –
 - (a) intentionally obstructs any consumer safety inspector or customs officer acting in pursuance of any provision of this Law;
 - (b) intentionally contravenes any requirement of a consumer safety inspector under any provision of this Law; or
 - (c) without reasonable cause fails to give any consumer safety inspector who is so acting any other assistance or information that the inspector may reasonably require for the purposes of the exercise of the inspector's functions under any provision of this Law,is guilty of an offence.
- (2) A person is guilty of an offence if, in giving any information which is required of the person by virtue of paragraph (1)(c) the person–
 - (a) makes any statement that the person knows is false in a material particular; or
 - (b) recklessly makes a statement that is false in a material particular.
- (3) A person guilty of an offence under this Article is liable to imprisonment for a term of 6 months and a fine of level 4 on the standard scale.

21 Appeals against safety notices

- (1) A person on whom a safety notice has been served and any person having an interest in any goods in respect of which a safety notice is for the time being in force may appeal to the Royal Court within one month of the service of the notice or the date on which the person might reasonably have been aware of the existence of the notice, whichever is the later.
- (2) Where an appeal has been made in accordance with this Article the Court may direct that the notice that is the subject of the appeal shall cease to have effect until the determination of the appeal.
- (3) On an appeal under this Article the Court may either confirm, vary or revoke the notice or substitute a different type of notice, and where it confirms it, may do so in its original form or with such modification as the Court may in the circumstances think fit.

22 Appeals against detention of consumer goods

- (1) Any person having an interest in any consumer goods that are for the time being detained under any provision of this Law by the Committee or a consumer safety inspector may apply to the Royal Court for an order requiring the goods to be released to that person or to another person.
- (2) On an application under this Article, an order requiring goods to be released shall be made only if the Court is satisfied –
 - (a) that proceedings –
 - (i) for an offence in respect of a contravention in relation to the goods of any safety provision, or
 - (ii) for the forfeiture of the goods under Article 18,have not been brought or, having been brought, have been concluded without the goods being forfeited; and
 - (b) where no such proceedings have been brought, that more than 6 months have elapsed since the goods were seized.

23 Compensation where no fault

- (1) If a consumer safety inspector exercises any power under Article 11(1)(c) to seize and detain goods or a notice under Article 14 has been served in respect of any goods, the Committee is liable to pay compensation to any person having an interest in the goods in respect of any loss or damage caused by reason of the exercise of the power if –
 - (a) there has been no contravention in relation to the goods of any safety provision; and
 - (b) the exercise of the power is not attributable to any neglect or default by that person.
- (2) Any disputed question as to the right to or the amount of any compensation payable under this Article shall be determined by a single arbiter appointed by the parties.
- (3) If the parties cannot agree on the appointment of an arbiter within a reasonable period any party may apply to the Judicial Greffier who shall appoint an arbiter.

24 Recovery of expenses of enforcement

- (1) This Article applies where a court –
 - (a) convicts a person of an offence in respect of a contravention in relation to any goods of any safety provision; or
 - (b) makes an order under Article 18 for the forfeiture of any goods.
- (2) The Court may, in addition to any other order it may make as to costs or expenses, order the person convicted or, as the case may be, any person having an interest in the goods to reimburse the Committee for any expenditure which has been or may be incurred by the Committee –
 - (a) in connection with any seizure or detention of the goods by or on behalf of the Committee; or
 - (b) in connection with any compliance by the Committee with directions given by the Court for the purposes of any order for the forfeiture of the goods.

PART 4

MISCELLANEOUS

25 Power of the Agent of the Impôts to disclose information

- (1) If the Agent of the Impôts thinks it appropriate to do so for the purpose of facilitating the exercise by the Committee or a consumer safety inspector of any functions conferred on either of them by or under this Law, the Agent of the Impôts may authorize the disclosure to the Committee or the inspector of any information obtained for the purposes of the exercise by the Agent of the Impôt's functions in relation to imported consumer goods.
- (2) A disclosure of information made to the Committee or a consumer safety inspector under paragraph (1) shall be made in such manner as may be directed by the Agent of the Impôts.
- (3) Information may be disclosed to the Committee or a consumer safety inspector under paragraph (1) whether or not the disclosure of the information has been requested by or on behalf of the Committee or that inspector.

26 Power of Committee to disclose information

Subject to Article 27, the Committee may make available to the public such information as the Committee has available relating to risks to health and safety posed by consumer goods, including –

- (a) product identification;
- (b) the nature of the risk; and
- (c) the steps taken to avoid such risk.

27 Restrictions on disclosure of information

- (1) A person who discloses any information that –
 - (a) was obtained by the person in consequence of –
 - (i) its being given to any person in compliance with any requirement imposed by a safety order,
 - (ii) the exercise by the Committee of the power conferred by Article 16, or
 - (iii) the exercise by any person of any power conferred by Part 3;
 - (b) consists of a secret manufacturing process or a trade secret obtained by the person in consequence of the inclusion of the information in any representations made in connection with a notice, other than a disclosure to the Committee of information relevant for ensuring the effectiveness of market monitoring and surveillance activities; or
 - (c) was disclosed to the person under Article 25,is guilty of an offence and liable to imprisonment for a term of 2 years or a fine.
- (2) However, paragraph (1) shall not apply to a disclosure of information if –
 - (a) the information has been –
 - (i) disclosed in any civil or criminal proceedings, or
 - (ii) required to be contained in a warning in pursuance of Article 12; or
 - (b) the disclosure –
 - (i) relates to the safety properties of consumer goods and is necessary to protect the health and safety of consumers,
 - (ii) is made for the purpose of facilitating the exercise of any function under this Law, or
 - (iii) is made in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.

28 Defence of due diligence

- (1) Subject to the following provisions of this Article, in proceedings against any person for an offence to which this Article applies it is a defence for that person to prove that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to–
 - (a) the act or default of another; or
 - (b) reliance on information given by another,that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 7 clear days before the hearing of the proceedings, he or she has served a notice under paragraph (3) on the Connétable or the Attorney General as the case may be.
- (3) A notice under this paragraph must give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time it is served.
- (4) A person is not be entitled to rely on the defence provided by paragraph (1) by reason of reliance or information supplied by another, unless he or she shows that it was reasonable in all the

circumstances to have relied on the information, having regard in particular –

- (a) to the steps that the person took, and those which might reasonably have been taken, for the purpose of verifying the information; and
 - (b) to whether he or she had any reason to disbelieve the information.
- (5) This Article applies to any offence under Article 15(4) or 19.

29 Liability of persons other than principal offender

- (1) Where the commission by any person of an offence to which Article 28 applies is due to an act or default committed by some other person in the course of any commercial activity of the person's, the other person is guilty of the offence and may be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.
- (2) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed (including as a result of paragraph (1)) 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 who was purporting to act in any such capacity,that person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for the offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (4) Any person who aids, abets, counsels or procures the commission of an offence under this Law is also guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

30 Civil proceedings

- (1) An obligation imposed by a Safety Order is a duty owed to any person who may be affected by a contravention of the obligation and, subject to any provision to the contrary in the Order and to the defences and other incidents that may be applicable, a contravention of any such obligation is actionable –
 - (a) on the ground of *vice rédhibitoire*; or
 - (b) as a breach of statutory duty,or both.
- (2) This Law shall not be construed as conferring any other right of action in civil proceedings in respect of any loss or damage suffered in consequence of a contravention of a safety provision.
- (3) Subject to any provision to the contrary in the agreement itself, an agreement is not void or unenforceable by reason only of a contravention of a safety provision.
- (4) Liability by virtue of paragraph (1) cannot be limited or excluded–
 - (a) by any contract term;
 - (b) by any notice; or
 - (c) subject to the power in paragraph (1) to limit or exclude it in a Safety Order, by any other provision.
- (5) Nothing in paragraph (1) shall prejudice the operation of section 12 of the Nuclear Installation Act 1965 of the United Kingdom (rights to compensation for certain breaches of duties confined to

rights under that Act) as extended to Jersey by the Nuclear Installations (Jersey) Order 1980^[4]

(6) In this Article “damage” includes personal injury and death.

31 Service of documents

- (1) Any document required or authorized by virtue of this Law to be served on a person may be so served –
 - (a) by delivering it to the person or by leaving it at the person’s proper address or by sending it by post to the person at that address;
 - (b) if the person is a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body, or in the case of a limited liability partnership, on a member of the partnership; or
 - (c) if the person is a partnership, by serving it in accordance with sub-paragraph (a) on a partner or on a person having control or management of the partnership business.
- (2) For the purposes of paragraph (1), and for the purposes of Article 12 of the Interpretation (Jersey) Law 1954^[5] (which relates to the service of documents by post) in its application to paragraph (1) the proper address of any person on whom a document is to be served by virtue of this Law 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 corporate (or in the case of a limited liability partnership of a member of the partnership, the address of the registered or principal office of the partnership);
 - (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 principal office of the partnership,and for the purposes of this paragraph the principal office of a company registered outside Jersey or of a partnership carrying on a commercial activity outside Jersey is its principal office within Jersey.

32 Savings for certain privileges

- (1) Nothing in this Law shall be taken as requiring any person to produce any records if the person would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or as authorizing any person to take possession of any records that are in the possession of a person who would be so entitled.
- (2) Nothing in this Law shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person’s spouse.

33 Orders

- (1) The Committee may make Orders for the purposes of carrying this Law into effect and in particular, but without prejudice to the generality of the foregoing power, for prescribing any matter that is to be prescribed by any provision of this Law.
- (2) An Order made under this Law may contain such incidental provisions as the Committee may consider to be necessary or expedient.

34 Repeal

The Consumer Protection (Jersey) Law 1964^[6] is repealed.

35 Amendments consequential upon move to Ministerial government

The Schedule has effect for the purpose of amending this Law in the event of the commencement of Article 42(3) of the States of Jersey Law 2005.^[7]

36 Citation and commencement

- (1) This Law may be cited as the Consumer Safety (Jersey) Law 200.
- (2) This Law, apart from the Schedule, shall come into force on such day as the States may by Act appoint and different days may be appointed for different purposes or different provisions of this Law.
- (3) Subject to paragraph (4), the Schedule shall come into force, in respect of any provision that it amends, on the same day as that provision.
- (4) If a provision of this Law that is amended by the Schedule is in force on the commencement of Article 42(3) of the States of Jersey Law 2005, the Schedule shall come into force, in respect of that provision, on the same day as Article 42(3).

SCHEDULE

(Article 35)

AMENDMENTS CONSEQUENTIAL UPON MOVE TO MINISTERIAL GOVERNMENT

- (1) In Article 1(1) –
 - (a) the definition “Committee” shall be deleted; and
 - (b) after the definition “information” there shall be inserted the following definition –

“ ‘Minister’ means the Minister for Economic Development;”.
- (2) In the following provisions of this Law for the word “Committee” in each place where it appears there shall be substituted the word “Minister” –
 - (a) Article 4(4);
 - (b) Article 8 and its heading;
 - (c) Article 9(1), (3)(a), (4) and (5)(a);
 - (d) Article 10(2);
 - (e) Article 11(1);
 - (f) Article 13(2);
 - (g) Article 14(2) and (5);
 - (h) Article 15(3);
 - (i) Article 16(1) and (2)(a);
 - (j) Article 17(1);
 - (k) Article 18(1) and (2);
 - (l) Article 22(1);
 - (m) Article 23(1);
 - (n) Article 24(2);
 - (o) Article 25;
 - (p) Article 26 and its heading;
 - (q) Article 27(1)(a)(ii) and (b); and
 - (r) Article 33.
- (3) In Article 8(2) and (3)(c) and (d) for the word “its” in each place where it appears there shall be substituted the words “his or her”.

[1] Chapter 05.925.

[2] *Recueil des Lois, Volume 1999, page 565.*

[3] Chapter 15.560.

[4] Chapter 17.595.

[5] *Recueil des Lois, Volume 1951-1960, page 381.*

[6] *Recueil des Lois, Volume 1963-1965, page 327 (Chapter 05.100).*

[7] *Recueil des Lois, Volume 2005, page 367.*