

STATES OF JERSEY



MARITIME SECURITY (JERSEY) ORDER 201-: EXTENSION OF PROVISIONS TO JERSEY

**Lodged au Greffe on 16th December 2013
by the Chief Minister**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to signify, pursuant to Article 31 of the States of Jersey Law 2005, whether they agree –

- (i) that a request be made to the Privy Council for the making of an Order in Council that would extend to Jersey, with appropriate modifications and adaptations, certain provisions of the Aviation and Maritime Security Act 1990 as summarised in the report of the Chief Minister dated 6th December 2013; and
- (ii) that the British Overseas Territories Act 2002 (to which reference is made in the said Act of 1990) shall extend to Jersey, so as to be law in Jersey.

CHIEF MINISTER

REPORT

Summary

The proposed Maritime Security (Jersey) Order 201- is an Order in Council which is intended to update the current application to Jersey of certain Acts of the United Kingdom relating to maritime security, as a consequence of changes in the United Kingdom and Jersey legislation. These changes will also enable a related international convention and protocol to be extended to Jersey. In addition, it is intended for connected purposes to approve the application in Jersey of an Act of the United Kingdom relating to British overseas territories citizens.

Introduction

Article 31(1) of the States of Jersey Law 2005 requires the Chief Minister to lodge a Proposition when an Order in Council is to be made that will extend to Jersey provisions of an Act of the UK Parliament, so that the States may signify their views on it.

Various provisions of the Aviation and Maritime Security Act 1990 were extended to Jersey by the Maritime Security (Jersey) Order 1996. This further Order replaces the 1996 Order and provides for modifications consequential upon amending legislation made in the United Kingdom, as well as the coming into force in 2004 of the Shipping (Jersey) Law 2002 and the subsequent States of Jersey Law 2005.

Thus, whilst the extension of the Aviation and Maritime Security Act 1990 to the Island was previously in place, it is a requirement of Article 31 of the States of Jersey Law 2005 to bring these amendments also to the States.

Furthermore, the 1990 Act enabled the UK to ratify the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation 1988 and the associated Protocol concerning the Safety of Fixed Platforms. However, Jersey has not so far requested these instruments to be extended to the Bailiwick. It is therefore intended that, once the new Order in Council has been made, the Chief Minister shall request that the United Kingdom government's ratification of the following Convention and Protocol be extended to Jersey –

- the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome 1988); and
- the Protocol for Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf supplementary to the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome 1988).

The Maritime Security (Jersey) Order 1996

The Order in Council that currently has effect in Jersey introduced new security powers from 1996. This was in part in the wake of the hijacking of the cruise ship *Achille Lauro* in 1985 by Palestinian terrorists. It was realised then that ships were potential prey. Security at ports and at sea needed tightening.

The effect of the Order in Council had been to create offences regarding the seizing of ships and fixed platforms at sea or endangering their safety. Crucially, it also introduced powers for the Jersey authorities to erect security fencing, to carry out searches of ships and searches within the harbour area.

The proposed new Order in Council and its effect in Jersey

The Aviation and Maritime Security Act 1990 has been amended in the United Kingdom, principally by the Merchant Shipping and Maritime Security Act 1997 and by the Railways and Transport Safety Act 2003.

- The Merchant Shipping and Maritime Security Act 1997 made amendments to clarify and extend the meaning of a harbour area so that it was not just limited to the area under the control of the Harbour Authority, it allowed for another harbour operator to request the designation of a restricted zone and for security directions to be given to persons operating those harbour areas. These changes can be seen in the new section 20(2) and 22(1) of the Act, as it will be applied to Jersey by the draft Order in Council. The Minister for Economic Development will, as a result, be able to direct both the Harbour Master and, more generally, a harbour operator to organise searches.
- The Railways and Transport Safety Act 2003 added section 36A. Whilst the 2003 Act did not contain a permissive extent provision, the draft Order in Council is able to make provision for a Jersey equivalent to section 36A. Accordingly, the Minister for Economic Development will be empowered by Order to maintain a list of approved maritime security service providers as well as to ban inappropriate persons from providing that service. Provision will also be able to be made as to training and qualifications of those engaged in providing the security service.

Apart from these refinements, 2 Jersey enactments have been taken into account –

- The Shipping (Jersey) Law 2002 repealed and replaced the Merchant Shipping Act of 1894 in its application to Jersey. This has meant replacing each reference to the 1894 Act with a reference to the 2002 Jersey Law.
- The States of Jersey Law 2005 introduced the new political structure replacing the Committee system with a Ministerial one. This has meant replacing references to the now defunct Harbours and Airport Committee with references to the Minister for Economic Development.

In summary, the replacement of the Maritime Security (Jersey) Order 1996 addresses these 4 issues, but leaves the effect of the remainder of the Order unchanged.

It should be said at this stage that the planned incorporation of Jersey Harbours and Jersey Airport into one corporate entity may necessitate further minor changes later in 2014, in that the new entity will act as the Harbour Authority. A number of references to the Harbour Master would thus be replaced by a reference to that body. This will be dealt with as part of the legal package concerning incorporation which will be presented to the States in due course.

The need for the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (Rome 1988) and Protocol on the Safety of Fixed Platforms

The proposed Maritime Security (Jersey) Order 201- makes full provision for the Convention and the Protocol. Amongst other powers, those provisions allow a party to the Convention to establish jurisdiction over persons in foreign flag vessels in territorial waters and to act against those persons if they commit terrorist offences such as seizing control of a ship or damaging navigational equipment or facilities.

For Jersey's authority in these matters to be recognised and accepted by the international community, the Order in Council by itself is not sufficient. Extension of the United Kingdom's ratification of the Convention and Protocol is necessary.

In 2005, new provisions have also been agreed internationally which extend the offences created to include the use and carriage of biological, chemical and nuclear weapons. The offences are also extended to capture corporate entities where they can be shown to be liable. As a first step to considering these new provisions, Jersey needs to have the original 1988 Convention and Protocol ratified on its behalf.

Additional to this point, following the International Monetary Fund (IMF) review of Jersey's financial regulation in 2009, Jersey has committed to a further review by the Council of Europe Committee of Experts on the Evaluation of Anti-Money Laundering and the Financing of Terrorism (MONEYVAL). The review will assess the extent to which Jersey has in place effective systems to counter money laundering and terrorist financing and compliance with the relevant international standards in these fields. Such standards include the recommendations of the IMF review and recommendations of the inter-governmental body that aims to promote policies to combat money laundering and terrorist financing (Financial Action Task Force, known as FATF), including the Special Recommendations on Terrorist Financing. One of those recommendations is that Jersey should seek extension of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation 1988 and its associated Protocol concerning the Safety of Fixed Platforms.

British Overseas Territories Act 2002

The Aviation and Maritime Security Act 1990, as it would be extended to Jersey by the proposed Maritime Security (Jersey) Order 201-, is defined as the 1990 Act as amended, *inter alia*, by the British Overseas Territories Act 2002. The British Overseas Territories Act 2002 provided for the renaming of dependent territories and British Dependent Territories citizenship as, respectively, British overseas territories and British overseas territories citizenship.

The significance of this amendment is that, when the proposed Maritime Security (Jersey) Order 201- extends section 17 of the 1990 Act, the original reference to "British Dependent Territories Citizen" now becomes a reference to "British overseas territories citizen".

However, the British Overseas Territories Act 2002 has yet to be transmitted for registration in the Royal Court. Registration is necessary if that Act is to have proper effect in Jersey law. Consequently, so that the Aviation and Maritime Security Act 1990, as it would be extended to Jersey, is interpreted correctly to take account of the 2002 amendment, it is necessary for the British Overseas Territories Act 2002 also to

be transmitted through the official channel to be registered by the Royal Court. This brings into play the procedure for reference to the States of Jersey under Article 31 of the States of Jersey Law 2005. Accordingly, the States are asked to signify their views on the extension of the 2002 Act to Jersey.

Financial and manpower implications

Because these are amendments consequential on changes in other legislation, they do not in themselves bring in any additional resource requirements.

Conclusion

It is important that the Island maintains the effectiveness of existing legislation by amending it when required.

Given the background of recommendations from the IMF and the value of Jersey achieving recognition by MONEYVAL and in accordance with Jersey's commitment to the prevention of international terrorism, extension of the Convention and Protocol to the Island is also to be requested.

6th December 2013

DRAFT – this is an unofficial consolidation of the Aviation and Maritime Security Act 1990 of the United Kingdom as intended to extend to Jersey by virtue of the draft Maritime Security (Jersey) Order 201-. It should be noted that the draft Order in Council is not yet in final form.

Aviation and Maritime Security Act 1990

1990 CHAPTER 31

An Act to give effect to the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation which supplements the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation; to make further provision with respect to aviation security and civil aviation; to give effect to the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and to the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf which supplements that Convention; to make other provision for the protection of ships and harbour areas against acts of violence; and for connected purposes.

[26th July 1990]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

*[PART I
AVIATION SECURITY
not extended]*

PART II

OFFENCES AGAINST THE SAFETY OF SHIPS AND FIXED PLATFORMS

9 Hijacking of ships

- (1) A person who unlawfully, by the use of force or by threats of any kind, seizes a ship or exercises control of it, commits the offence of hijacking a ship, whatever his nationality and whether the ship is in the Jersey or elsewhere, but subject to subsection (2) below.
- (2) Subsection (1) above does not apply in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless—
 - (a) the person seizing or exercising control of the ship is a United Kingdom national, or
 - (b) his act is committed in Jersey, or
 - (c) the ship is used in the naval or customs service of the United Kingdom, any of the Channel Islands or the Isle of Man, or in the service of any police force in the United Kingdom, any of the Channel Islands or the Isle of Man.

- (3) A person guilty of the offence of hijacking a ship is liable on conviction to imprisonment for life.

10 Seizing or exercising control of fixed platforms

- (1) A person who unlawfully, by the use of force or by threats of any kind, seizes a fixed platform or exercises control of it, commits an offence, whatever his nationality and whether the fixed platform is in Jersey or elsewhere.
- (2) A person guilty of an offence under this section is liable on conviction to imprisonment for life.

11 Destroying ships or fixed platforms or endangering their safety

- (1) Subject to subsection (5) below, a person commits an offence if he unlawfully and intentionally—
- (a) destroys a ship or a fixed platform,
 - (b) damages a ship, its cargo or a fixed platform so as to endanger, or to be likely to endanger, the safe navigation of the ship, or as the case may be, the safety of the platform, or
 - (c) commits on board a ship or on a fixed platform an act of violence which is likely to endanger the safe navigation of the ship, or as the case may be, the safety of the platform.
- (2) Subject to subsection (5) below, a person commits an offence if he unlawfully and intentionally places, or causes to be placed, on a ship or fixed platform any device or substance which—
- (a) in the case of a ship, is likely to destroy the ship or is likely so to damage it or its cargo as to endanger its safe navigation, or
 - (b) in the case of a fixed platform, is likely to destroy the fixed platform or so to damage it as to endanger its safety.
- (3) Nothing in subsection (2) above is to be construed as limiting the circumstances in which the commission of any act—
- (a) may constitute an offence under subsection (1) above, or
 - (b) may constitute attempting or conspiring to commit, or aiding, abetting, counselling, procuring or inciting the commission of such an offence.
- (4) Except as provided by subsection (5) below, subsections (1) and (2) above apply whether any such act as is mentioned in those subsections is committed in Jersey or elsewhere and whatever the nationality of the person committing the act.

- (5) Subsections (1) and (2) above do not apply in relation to any act committed in relation to a warship or any other ship used as a naval auxiliary or in customs or police service unless—
- (a) the person committing the act is a United Kingdom national, or
 - (b) his act is committed in Jersey, or
 - (c) the ship is used in the naval or customs service of the United Kingdom, any of the Channel Islands or the Isle of Man, or in the service of any police force in the United Kingdom, any of the Channel Islands or the Isle of Man.
- (6) A person guilty of an offence under this section is liable on conviction to imprisonment for life.
- (7) In this section—
- “act of violence” means—
- (a) any act done in Jersey, which constitutes the offence of murder, attempted murder, manslaughter or assault or an offence under Article 2 of the Loi (1884) sur les matières explosives, and
 - (b) any act done outside Jersey which, if done in Jersey, would constitute such an offence as is mentioned in paragraph (a) above, and
- “unlawfully”—
- (a) in relation to the commission of an act in Jersey, means so as (apart from this Act) to constitute an offence under the law of Jersey, and
 - (b) in relation to the commission of an act outside Jersey, means so that the commission of the act would (apart from this Act) have been an offence under the law of Jersey if it had been committed in Jersey.

12 Other acts endangering or likely to endanger safe navigation

- (1) Subject to subsection (6) below, it is an offence for any person unlawfully and intentionally—
- (a) to destroy or damage any property to which this subsection applies, or
 - (b) seriously to interfere with the operation of any such property,
- where the destruction, damage or interference is likely to endanger the safe navigation of any ship.
- (2) Subsection (1) above applies to any property used for the provision of maritime navigation facilities, including any land, building or ship so used, and including any apparatus or equipment so used, whether it is on board a ship or elsewhere.

- (3) Subject to subsection (6) below, it is also an offence for any person intentionally to communicate any information which he knows to be false in a material particular, where the communication of the information endangers the safe navigation of any ship.
- (4) It is a defence for a person charged with an offence under subsection (3) above to prove that, when he communicated the information, he was lawfully employed to perform duties which consisted of or included the communication of information and that he communicated the information in good faith in performance of those duties.
- (5) Except as provided by subsection (6) below, subsections (1) and (3) above apply whether any such act as is mentioned in those subsections is committed in Jersey or elsewhere and whatever the nationality of the person committing the act.
- (6) For the purposes of subsections (1) and (3) above any danger, or likelihood of danger, to the safe navigation of a warship or any other ship used as a naval auxiliary or in customs or police service is to be disregarded unless—
 - (a) the person committing the act is a United Kingdom national, or
 - (b) his act is committed in Jersey, or
 - (c) the ship is used in the naval or customs service of the United Kingdom, any of the Channel Islands or the Isle of Man, or in the service of any police force in the United Kingdom, any of the Channel Islands or the Isle of Man.
- (7) A person guilty of an offence under this section is liable on conviction to imprisonment for life.
- (8) In this section unlawfully has the same meaning as in section 11 of this Act.

13 Offences involving threats

- (1) A person commits an offence if—
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do in relation to any ship or fixed platform an act which is an offence by virtue of section 11(1) of this Act, and
 - (b) the making of that threat is likely to endanger the safe navigation of the ship or, as the case may be, the safety of the fixed platform.
- (2) Subject to subsection (4) below, a person commits an offence if—
 - (a) in order to compel any other person to do or abstain from doing any act, he threatens that he or some other person will do an act which is an offence by virtue of section 12(1) of this Act, and

- (b) the making of that threat is likely to endanger the safe navigation of any ship.
- (3) Except as provided by subsection (4) below, subsections (1) and (2) above apply whether any such act as is mentioned in those subsections is committed in Jersey or elsewhere and whatever the nationality of the person committing the act.
- (4) Section 12(6) of this Act applies for the purposes of subsection (2)(b) above as it applies for the purposes of section 12(1) and (3) of this Act.
- (5) A person guilty of an offence under this section is liable on conviction to imprisonment for life.

14 Ancillary offences

- (1) Where a person (of whatever nationality) does outside Jersey any act which, if done in the United Kingdom, would constitute an offence falling within subsection (2) below, his act shall constitute that offence if it is done in connection with an offence under section 9, 10, 11 or 12 of this Act committed or attempted by him.
- (2) The offences falling within this subsection are murder, attempted murder, manslaughter and assault and offences under Article 2 of the Loi (1884) sur les matières explosives.
- (3) Subsection (1) above has effect without prejudice to the following provisions of the Shipping (Jersey) Law 2002—
 - (a) Article 173 (jurisdiction in case of offences on board ship, etc.);
 - (b) Article 174 (offences committed by Jersey masters and seamen);
 - (c) Article 175 (offences by officers of bodies corporate); and
 - (d) Article 176 (secondary offenders).
- (4) It is an offence for any person in Jersey to induce or assist the commission outside Jersey of any act which—
 - (a) would, but for subsection (2) of section 9 of this Act, be an offence under that section, or
 - (b) would, but for subsection (5) of section 11 of this Act, be an offence under that section, or
 - (c) would, but for subsection (6) of section 12 of this Act, be an offence under that section, or
 - (d) would, but for subsection (4) of section 13 of this Act, be an offence under that section.

- (5) A person who commits an offence under subsection (4) above is liable on conviction to imprisonment for life.
- (6) Subsection (4) above has effect without prejudice to the operation, in relation to any offence under section 9, 11, 12 or 13 of this Act, of any enactment or rule of law relating to aiding, abetting, counselling or procuring the commission of an offence.

15 Master's power of delivery

- (1) The provisions of this section shall have effect for the purposes of any proceedings before any court in Jersey.
- (2) If the master of a ship, wherever that ship may be, and whatever the State (if any) in which it may be registered, has reasonable grounds to believe that any person on board the ship has—
 - (a) committed any offence under section 9, 11, 12 or 13 of this Act,
 - (b) attempted to commit such an offence, or
 - (c) aided, abetted, counselled, procured or incited the commission of such an offence,in relation to any ship other than a warship or other ship used as a naval auxiliary or in customs or police service, he may deliver that person to an appropriate officer in Jersey or any other Convention country.
- (3) Where the master of a ship intends to deliver any person in Jersey or any other Convention country in accordance with subsection (2) above he shall give notification to an appropriate officer in that country—
 - (a) of his intention to deliver that person to an appropriate officer in that country; and
 - (b) of his reasons for intending to do so.
- (4) Any notification under subsection (3) above must be given—
 - (a) before the ship in question has entered the territorial sea of the country concerned; or
 - (b) if in the circumstances it is not reasonably practicable to comply with paragraph (a) above, as soon as reasonably practicable after the ship has entered that territorial sea.
- (5) Where the master of a ship delivers any person to an appropriate officer in any country under subsection (2) above he shall—
 - (a) make to an appropriate officer in that country such oral or written statements relating to the alleged offence as that officer may reasonably require; and

- (b) deliver to an appropriate officer in that country such other evidence relating to the alleged offence as is in the master's possession.
- (6) The master of a ship who without reasonable excuse fails to comply with subsection (3) or (5) above is guilty of an offence and liable on conviction to a fine.
- (7) It is a defence for a master of a ship charged with an offence under subsection (6) above of failing to comply with subsection (3) above to show that he believed on reasonable grounds that the giving of the notification required by subsection (3) above would endanger the safety of the ship and, except where the country concerned is Jersey, that either—
 - (a) he notified some other competent authority in the country concerned within the time required by subsection (4) above, or
 - (b) he believed on reasonable grounds that the giving of notification to any competent authority in that country would endanger the safety of the ship.
- (8) In this section—
 - “appropriate officer” means—
 - (a) in relation to Jersey, a police officer or immigration officer, and
 - (b) in relation to any other Convention country, an officer having functions corresponding to the functions in Jersey either of a police officer or of an immigration officer,

“Convention country” means a country in which the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, which was signed at Rome on 10th March 1988, is for the time being in force; and Her Majesty may by Order in Council certify that any country specified in the Order is for the time being a Convention country and any such Order in Council for the time being in force shall be conclusive evidence that the country in question is for the time being a Convention country, and

“master” has the same meaning as in the Shipping (Jersey) Law 2002.

16 Prosecution of offences and proceedings

Proceedings for an offence under any provision of this Part of this Act shall not be instituted except by, or with the consent of, Her Majesty's Attorney General for Jersey.

17 Interpretation of Part II

- (1) In this Part of this Act—
 - “fixed platform” means—

- (a) any offshore installation, within the meaning of the Mineral Workings (Offshore Installations) Act 1971, which is not a ship, and
- (b) any other artificial island, installation or structure which—
 - (i) permanently rests on, or is permanently attached to, the seabed,
 - (ii) is maintained for the purposes of the exploration or exploitation of resources or for other economic purposes, and
 - (iii) is not connected with dry land by a permanent structure providing access at all times and for all purposes;

“naval service” includes military and air force service;

“ship” means any vessel (including hovercraft, submersible craft and other floating craft) other than one which—

- (a) permanently rests on, or is permanently attached to, the seabed, or
- (b) has been withdrawn from navigation or laid up; and

“United Kingdom national” means an individual who is—

- (a) a British citizen, a British Dependent Territories citizen, a British National (Overseas) or a British Overseas citizen,
- (b) a person who under the British Nationality Act 1981 is a British subject, or
- (c) a British protected person (within the meaning of that Act).

PART III

PROTECTION OF SHIPS AND HARBOUR AREAS AGAINST ACTS OF VIOLENCE

General purposes

18. Purposes to which Part III applies

- (1) The purposes to which this Part of this Act applies are the protection against acts of violence—
 - (a) of ships, and of persons or property on board ships, and
 - (b) of harbour areas, of such persons as are at any time present in any part of a harbour area and of such property as forms part of a harbour area or is at any time (whether permanently or temporarily) in any part of a harbour area.

- (2) In this Part of this Act “act of violence” means any act (whether actual or potential, and whether done or to be done in Jersey or elsewhere) which either—
- (a) being an act done in Jersey, constitutes, or
 - (b) if done in Jersey would constitute,
- the offence of murder, attempted murder, manslaughter or assault, or an offence under Article 2 of the Loi (1884) sur les Matières Explosives or any act to which subsection (2A) applies.
- (2A) This subsection applies to any act which involves—
- (a) the destruction or damage without lawful excuse of any property belonging to another where the person doing the act intends to destroy or damage such property or is reckless as to whether such property would be destroyed or damaged; or
 - (b) the destruction or damage without lawful excuse of any property whether belonging to the person doing the act or to some other person where the person doing the act—
 - (i) intends to destroy or damage any property or is reckless as to whether any property would be destroyed or damaged; and
 - (ii) intends by the destruction or damage to endanger the life of another or is reckless as to whether the life of another would be thereby endangered.
- (3) In this Part of this Act “harbour area” means the aggregate of—
- (a) any harbour as defined in the Harbours (Administration) (Jersey) Law 1961, and
 - (b) any land which is adjacent to such a harbour and which is either land occupied by the Harbour Master or land in respect of which the Harbour Master has functions of improvement, maintenance or management.
- (4) In subsection (3)(b) above “functions” includes powers and duties.

Powers of Minister

19 Power of Minister to require information

- (1) The Minister may, by notice in writing served on any of the following persons—
- (a) the owner, charterer, manager or master of—
 - (i) a British ship, or

- (ii) any other ship which is in, or appears to the Minister to be likely to enter, a harbour area,
- (c) any person who carries on harbour operations in a harbour area, and
- (d) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,

require that person to provide the Minister with such information specified in the notice as the Minister may require in connection with the exercise by the Minister of his functions under this Part of this Act.

- (2) A notice under subsection (1) above shall specify a date (not being earlier than seven days from the date on which the notice is served) before which the information required by the notice in accordance with subsection (1) above is to be furnished to the Minister.
- (3) Any such notice may also require the person on whom it is served, after he has furnished to the Minister the information required by the notice in accordance with subsection (1) above, to inform the Minister if at any time the information previously furnished to the Minister (including any information furnished in pursuance of a requirement imposed by virtue of this subsection) is rendered inaccurate by any change of circumstances (including the taking of any further measures for purposes to which this Part of this Act applies or the alteration or discontinuance of any measures already being taken).
- (4) In so far as such a notice requires further information to be furnished to the Minister in accordance with subsection (3) above, it shall require that information to be furnished to him before the end of such period (not being less than seven days from the date on which the change of circumstances occurs) as is specified in the notice for the purposes of this subsection.
- (5) Any person who—
 - (a) without reasonable excuse, fails to comply with a requirement imposed on him by a notice under this section, or
 - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,commits an offence.
- (6) A person guilty of an offence under subsection (5) above is liable—
 - (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (7) A notice served on a person under subsection (1) above may at any time—
 - (a) be revoked by a notice in writing served on him by the Minister, or

(b) be varied by a further notice under subsection (1) above.

20 Designation of restricted zones of harbour areas

- (1) The Minister may designate the whole or any part of a harbour area as a restricted zone for the purposes of this Part of this Act.
- (2) A harbour operator may, and shall if so requested in writing by the Minister, apply to the Minister for the designation of the whole or any part of the operating area as a restricted zone for the purposes of this Part of this Act.
- (3) An application under subsection (2) above shall be in such form, and accompanied by such plans, as the Minister may require.
- (4) If the Minister approves an application under subsection (2) above with or without modifications, he shall designate the restricted zone accordingly.
- (5) Before approving an application with modifications, the Minister shall consult the applicant.
- (6) If a person is requested in writing by the Minister to make an application under subsection (2) above within a specified period but fails to do so within that period, the Minister may designate the whole or any part of the harbour area or, as the case may be, of the operating area as a restricted zone.
- (7) The whole or any part of a harbour area or, as the case may be, of an operating area may be designated as a restricted zone, or part of a restricted zone, for specified days or times of day only.
- (8) The Minister shall give notice to the person who made, or was requested to make, the application of any designation under this section and the designation of the restricted zone shall take effect on the giving of the notice.
- (9) Where the whole or any part of a harbour area or, as the case may be, of an operating area has been designated under this section as a restricted zone—
 - (a) subsections (1) to (8) above also have effect in relation to any variation of the designation, and
 - (b) the designation may at any time be revoked by the Minister.
- (10) In this Part of this Act “harbour operator” means a person who—
 - (a) carries on harbour operations in a harbour area, and
 - (b) is designated for the purposes of this Part by a direction in writing made by the Minister;

and “operating area” means, in relation to that person, so much of the harbour area as is under his control.

- (11) A direction under subsection (10) above may be revoked by a subsequent direction.

21 Power to impose restrictions in relation to ships

- (1) For purposes to which this Part of this Act applies, the Minister may give a direction in writing to the Harbour Master or to the owner, charterer, manager or master of a British ship, or of any other ship which is in a harbour area, requiring that person—

(a) not to cause or permit persons or property to go or be taken on board any ship to which the direction relates, or to come or be brought into proximity to any such ship, unless such searches of those persons or that property as are specified in the direction have been carried out by police officers or by other persons of a description specified in the direction, or

(b) not to cause or permit any such ship to go to sea unless such searches of the ship as are specified in the direction have been carried out by police officers or by other persons of a description so specified.

- (2) For purposes to which this Part of this Act applies, the Minister may give a direction in writing to the owner, charterer, manager or master of—

(a) a British ship, or

(b) any other ship which is in a harbour area,

requiring him not to cause or permit the ship to go to sea unless such modifications or alterations of the ship, or of apparatus or equipment installed in or carried on board the ship, as are specified in the direction have first been carried out, or such additional apparatus or equipment as is so specified is first installed in or carried on board the ship.

- (3) In giving any direction under subsection (2) above, the Minister shall allow, and shall specify in the direction, such period as appears to him to be reasonably required for carrying out the modifications or alterations or installing or obtaining the additional apparatus or equipment in question; and the direction shall not take effect before the end of the period so specified.

- (4) Subject to the following provisions of this Part of this Act, a direction given to an owner, charterer or manager of a ship under subsection (1) or (2) above may be given so as to relate either to all the ships falling within that subsection of which at the time when the direction is given or at any subsequent time he is the owner, charterer or manager or only to one or more such ships specified in the direction; and a direction given to the Harbour Master under subsection (1) above may be given so as to relate either to all ships which at the time when the direction is given or at any subsequent time are in any part of the harbour area, or to a class of such ships specified in the direction.

- (5) Subject to the following provisions of this Part of this Act, a direction under subsection (1) above may be given so as to relate—
- (a) either to all persons or only to one or more persons, or persons of one or more descriptions, specified in the direction, and
 - (b) either to property of every description or only to particular property, or property of one or more descriptions, so specified.
- (6) Subject to the following provisions of this Part of this Act, any direction given under this section to any person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.
- (7) A direction may be given under this section to a person appearing to the Minister to be about to become such a person as is mentioned in subsection (1) or (2) above, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person so mentioned and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (8) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (8) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on conviction to a fine.

22 Power to require harbour authorities to promote searches in harbour areas

- (1) For purposes to which this Part of this Act applies, the Minister may give a direction in writing to—
- (a) the Harbour Master, or
 - (b) a harbour operator,
- requiring that person to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by police officers or by other persons of a description specified in the direction.
- (2) The searches to which this section applies, in relation to a harbour area, are searches—
- (a) of the harbour area or any part of it,

- (b) of any ship which at the time when the direction is given or at any subsequent time is in the harbour area, and
 - (c) of persons and property (other than ships) which may at any time be in the harbour area.
- (2A) The searches to which this section applies, in relation to an operating area, are searches—
- (a) of the operating area or any part of it,
 - (b) of any ship which at the time when the direction is given or at any subsequent time is in the operating area, and
 - (c) of persons and property (other than ships) which may at any time be in the operating area.
- (3) Where a direction under this section to the Harbour Master is for the time being in force, then, subject to subsections (4) and (5) below, if a police officer or any other person specified in the direction in accordance with this section has reasonable cause to suspect that an article to which this subsection applies is in, or may be brought into, any part of the harbour area, he may, by virtue of this subsection and without a warrant, search any part of the harbour area or any ship, vehicle, goods or other moveable property of any description which, or any person who, is for the time being in any part of the harbour area, and for that purpose—
- (a) may enter any building or works in the harbour area, or enter upon any land in the harbour area, if need be by force,
 - (b) may go on board any such ship and inspect the ship,
 - (c) may stop any such ship and, for so long as may be necessary for that purpose, prevent it from being moved, and
 - (d) may stop any such vehicle, goods, property or person and detain it or him for so long as may be necessary for that purpose.
- (3A) Subsection (3) above applies in relation to a direction under this section to a harbour operator as it applies in relation to a direction to the Harbour Master, but as if the references to the harbour area (or to any part of the harbour area) were references to the operating area (or any part of the operating area).
- (4) In the case of premises used only as a private dwelling any power to search or enter conferred by subsection (3) above may not be exercised except—
- (a) under the authority of a warrant issued by the Bailiff; and
 - (b) by a police officer.
- (5) If, on an application made by a police officer, the Bailiff is satisfied that there are reasonable grounds for suspecting that an article to which subsection (3)

above applies is in any premises used only as a private dwelling, he may issue a warrant authorising a police officer to enter and search the premises.

- (6) Subsection (3) above applies to the following articles—
- (a) any firearm, or any article having the appearance of being a firearm, whether capable of being discharged or not,
 - (b) any explosive, any article manufactured or adapted (whether in the form of a bomb, grenade or otherwise) so as to have the appearance of being an explosive, whether it is capable of producing a practical effect by explosion or not, or any article marked or labelled so as to indicate that it is or contains an explosive, and
 - (c) any article (not falling within either of the preceding paragraphs) made or adapted for use for causing injury to or incapacitating a person or for destroying or damaging property, or intended by the person having it with him for such use, whether by him or by any other person.
- (7) Any person who—
- (a) without reasonable excuse, fails to comply with a direction given to him under this section, or
 - (b) intentionally obstructs a person acting in the exercise of a power conferred on him by subsection (3) above,
- commits an offence.
- (8) A person guilty of an offence under subsection (7) above is liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on conviction to a fine.
- (10) Subsection (3) above has effect without prejudice to the operation, in relation to any offence under this Act, of any enactment or rule of law relating to the power to arrest without warrant.

23 Power to require other persons to promote searches

- (1) For purposes to which this Part of this Act applies, the Minister may give a direction in writing to any person who—
- (a) carries on harbour operations in a harbour area, or
 - (b) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him,

requiring him to use his best endeavours to secure that such searches to which this section applies as are specified in the direction are carried out by police officers or by other persons of a description specified in the direction.

- (1A) A direction may not be given under this section to—
- (a) the Harbour Master, or
 - (b) a harbour operator.
- (2) The searches to which this section applies are—
- (a) in relation to a person falling within subsection (1)(a) above, searches—
 - (i) of any land which he occupies within the harbour area, and
 - (ii) of persons or property which may at any time be on that land; and
 - (b) in relation to a person falling within subsection (1)(b) above, searches—
 - (i) of any land which he occupies outside the harbour area for the purposes of his business, and
 - (ii) of persons or property which may at any time be on that land.
- (3) Any person who, without reasonable excuse, fails to comply with a direction given to him under this section is guilty of an offence and liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (4) Where a person is convicted of an offence under subsection (3) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on conviction to a fine.

24 General power to direct measures to be taken for purposes to which Part III applies

- (1) Subsection (2) below applies to—
- (a) any person who is the owner, charterer or manager of one or more ships which—
 - (i) are British ships, or
 - (ii) are in a harbour area,

- (c) any person who carries on harbour operations in a harbour area, and
 - (d) any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (2) Subject to the following provisions of this section, the Minister may give a direction in writing to any person to whom this subsection applies requiring him to take such measures for purposes to which this Part of this Act applies as are specified in the direction—
- (a) in the case of a direction given to a person as the owner, charterer or manager of a ship, in respect of all the ships falling within subsection (1)(a) above of which (at the time when the direction is given or at any subsequent time) he is the owner, charterer or manager, or in respect of any such ships specified in the direction,
 - (c) in the case of a direction given to a person as a person falling within subsection (1)(c) above, in respect of the harbour operations carried on by him, and
 - (d) in the case of a direction given to a person as a person who is permitted to have access to a restricted zone as mentioned in subsection (1)(d) above, in respect of such activities carried on by that person in that zone as are specified in the direction.
- (3) Without prejudice to the generality of subsection (2) above, the measures to be specified in a direction given under this section to any person to whom that subsection applies may include the provision by that person of persons charged with the duty (at such times as may be specified in the direction)—
- (a) where the direction is given to a person as the owner, charterer or manager of ships, of guarding the ships against acts of violence,
 - (c) where the direction is given to a person as falling within subsection (1)(c) above, of guarding against acts of violence any ship in the harbour area which is for the time being under his control, or
 - (d) where the direction is given to a person as falling within subsection (1)(d) above, of guarding—
 - (i) any land outside the harbour area occupied by him for the purposes of his business, any vehicles or equipment used for those purposes and any goods which are in his possession for those purposes, and
 - (ii) any ship which is for the time being under his control,
- for purposes to which this Part of this Act applies.
- (4) A direction given under this section may be either of a general or of a specific character, and may require any measures specified in the direction to be taken at such time or within such period as may be so specified.

- (5) A direction under this section—
- (a) shall not require any search (whether of persons or of property), and
 - (b) shall not require the modification or alteration of any ship, or of any of its apparatus or equipment, or the installation or carriage of additional apparatus or equipment, or prohibit any ship from being caused or permitted to go to sea without some modification or alteration of the ship or its apparatus or equipment or the installation or carriage of additional apparatus or equipment.
- (6) A direction may be given under this section to a person appearing to the Minister to be about to become a person to whom subsection (2) above applies, but a direction given to a person by virtue of this subsection shall not take effect until he becomes a person to whom subsection (2) above applies and, in relation to a direction so given, the preceding provisions of this section shall apply with the necessary modifications.
- (7) Any person who—
- (a) without reasonable excuse, fails to comply with a direction given to him under this section, or
 - (b) intentionally interferes with any building constructed or works executed on any land in compliance with a direction under this section or with anything installed on, under, over or across any land in compliance with such a direction,
- commits an offence.
- (8) A person guilty of an offence under subsection (7) above is liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (9) Where a person is convicted of an offence under subsection (7)(a) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on conviction to a fine for each day on which the failure continues.
- (10) The ownership of any property shall not be affected by reason only that it is placed on or under, or affixed to, any land in compliance with a direction under this section.

Supplemental provisions with respect to directions

25 Matters which may be included in directions under sections 21 to 24

- (1) A direction under subsection (1) of section 21 or under section 22 or 23 of this Act may specify the minimum number of persons by whom any search to which the direction relates is to be carried out, the qualifications which

persons carrying out any such search are to have, the manner in which any such search is to be carried out, and any apparatus, equipment or other aids to be used for the purpose of carrying out any such search.

- (2) A direction under subsection (2) of section 21 of this Act may specify the qualifications required to be had by persons carrying out any modifications or alterations, or the installation of any additional apparatus or equipment, to which the direction relates.
- (3) A direction under section 24 of this Act may specify—
 - (a) the minimum number of persons to be employed for the purposes of any measures required by the direction to be taken by the person to whom it is given, and the qualifications which persons employed for those purposes are to have, and
 - (b) any apparatus, equipment or other aids to be used for those purposes.
- (4) Where a direction under any of the preceding provisions of this Part of this Act requires searches to be carried out, or other measures to be taken, by police officers, the direction may require the person to whom it is given to inform the Chief Officer of the States of Jersey Police Force that the Minister considers it appropriate that police officers should be duly authorised to carry, and should carry, firearms when carrying out the searches or taking the measures in question.
- (5) Nothing in subsections (1) to (4) above shall be construed as limiting the generality of any of the preceding provisions of this Part of this Act.
- (6) In this section “qualifications” includes training and experience.

26 Limitations on scope of directions under sections 21 to 24

- (1) Without prejudice to section 25(4) of this Act, a direction shall not require or authorise any person to carry a firearm [except to the extent necessary for the purpose of removing any firearm found pursuant to a search under section 22 of this Act from the restricted zone and delivering the firearm to a person authorised to carry it].
- (2) A direction shall not have effect in relation to any ship used in naval, customs or police service.
- (3) A direction shall not have effect in relation to any ship which is registered outside the British Islands and of which the owner is the Government of a country outside the British Islands, or is a department or agency of such a Government, except at a time when any such ship is being used for commercial purposes or is for the time being allocated by that Government, department or agency for such use.
- (4) A direction (except in so far as it requires any building or other works to be constructed, executed, altered, demolished or removed) shall not be construed as requiring or authorising the person to whom the direction was given, or any person acting as his employee or agent, to do anything which, apart from the

direction, would constitute an act of violence; but nothing in this subsection shall restrict the use of such force as is reasonable in the circumstances (whether at the instance of the person to whom the direction was given or otherwise) by a police officer, or its use by any other person in the exercise of a power conferred by section 22(3) of this Act.

- (5) In so far as a direction requires anything to be done or not done at a place outside Jersey—
- (a) it shall not have effect except in relation to British ships, and
 - (b) it shall not have effect so as to require anything to be done or not done in contravention of any provision of the law (whether civil or criminal) in force at that place, other than any such provision relating to breach of contract.
- (6) In so far as a direction given to any person mentioned in section 24(1)(c) or (d) of this Act requires a building or other works to be constructed, executed, altered, demolished or removed on land outside the harbour area, or requires any other measures to be taken on such land, the direction shall not confer on the person to whom it is given any rights as against a person having—
- (a) an interest in that land, or
 - (b) a right to occupy that land, or
 - (c) a right restrictive of its use;

and accordingly, the direction shall not be construed as requiring the person to whom it is given to do anything which would be actionable at the suit or instance of a person having such interest or right in his capacity as a person having that interest or right.

- (7) Nothing in this section shall be construed as derogating from any exemption or immunity of the Crown in relation to the provisions of this Part of this Act.
- (8) In this section “direction” means a direction under section 21, 22, 23 or 24 of this Act.

27 General or urgent directions under sections 21 to 24

- (1) A direction given to any person under section 21, 22, 23 or 24 of this Act need not be addressed to that particular person, but may be framed in general terms applicable to all persons to whom such a direction may be given or to any class of such persons to which that particular person belongs.
- (2) If it appears to the Minister that an exception from any direction given under any of those sections is required as a matter of urgency in any particular case he may, by a notification given (otherwise than in writing) to the person for the time being subject to the direction, authorise that person to disregard the requirements of the direction—

- (a) in relation to such ships or class of ships, in relation to such harbour area or part of a harbour area, in relation to such land outside a harbour area, in relation to such activities or in relation to such persons or property or such description of persons or property, and
- (b) on such occasion or series of occasions, or for such period,

as he may specify; and the direction shall have effect in that case subject to any exceptions so specified.

- (3) Any notification given to any person under subsection (2) above with respect to any direction shall cease to have effect (if it has not already done so)—
 - (a) if a direction in writing is subsequently given to that person varying or revoking the original direction, or
 - (b) if no such direction in writing is given within the period of thirty days beginning with the date on which the notification was given, at the end of that period.
- (4) Any notification given under subsection (2) above shall be regarded as given to the person to whom it is directed if it is given—
 - (a) to any person authorised by that person to receive any such direction or notification,
 - (b) where that person is a body corporate, to the secretary, clerk or similar officer of the body corporate, and
 - (c) in any other case, to anyone holding a comparable office or position in that person's employment.

28 Objections to certain directions under section 24

- (1) This section applies to any direction given under section 24 of this Act which—
 - (a) requires a person to take measures consisting of or including the construction, execution, alteration, demolition or removal of a building or other works, and
 - (b) does not contain a statement that the measures are urgently required and that accordingly the direction is to take effect immediately.
- (2) At any time before the end of the period of thirty days beginning with the date on which a direction to which this section applies is given, the person to whom the direction is given may serve on the Minister a notice in writing objecting to the direction, on the grounds that the measures specified in the direction, in so far as they relate to the construction, execution, alteration, demolition or removal of a building or other works—
 - (a) are unnecessary and should be dispensed with, or

- (b) are excessively onerous or inconvenient and should be modified in a manner specified in the notice.
- (3) Where the person to whom such a direction is given serves a notice under subsection (2) above objecting to the direction, the Minister shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and shall then serve on the objector a notice in writing either—
- (a) confirming the direction as originally given, or
 - (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
 - (c) withdrawing the direction;

and the direction shall not take effect until it has been confirmed (with or without modification) by a notice served under this subsection.

29 Enforcement notices

- (1) Where an authorised person is of the opinion that any person has failed to comply with any general requirement of a direction given to him under section 21, 22, 23 or 24 of this Act, the authorised person may serve on that person a notice (in this Part of this Act referred to as an enforcement notice)—
- (a) specifying those general requirements of the direction with which he has, in the opinion of the authorised person, failed to comply, and
 - (b) specifying, subject to section 30 of this Act, the measures that ought to be taken in order to comply with those requirements.
- (2) For the purposes of this section a requirement of a direction given by the Minister under section 21, 22, 23 or 24 of this Act is a general requirement if the provision imposing the requirement—
- (a) has been included in two or more directions given to different persons (whether or not at the same time), and
 - (b) is framed in general terms applicable to all the persons to whom those directions are given.
- (3) If an enforcement notice is served under this section on the owner, charterer or manager of a ship, then (whether or not that service is effected by virtue of section 45(8) of this Act) an authorised person may serve on the master of the ship—
- (a) a copy of the enforcement notice and of the direction to which it relates, and

- (b) a notice stating that the master is required to comply with the enforcement notice,

and, if he does so, sections 31, 32 and 33 of this Act shall have effect as if the enforcement notice had been served on him as well as on the owner, charterer or manager of the ship.

30 Contents of enforcement notice

- (1) An enforcement notice may specify in greater detail measures which are described in general terms in those provisions of the direction to which it relates which impose general requirements, but may not impose any requirement which could not have been imposed by a direction given by the Minister under the provision under which the direction was given.
- (2) An enforcement notice may be framed so as to afford the person on whom it is served a choice between different ways of complying with the specified general requirements of the direction.
- (3) Subject to subsection (4) below, an enforcement notice which relates to a direction given under section 21 of this Act must require the person to whom the direction was given not to cause or permit things to be done as mentioned in subsection (1)(a) or (b) or (2) of that section, as the case requires, until the specified measures have been taken.
- (4) In serving an enforcement notice which relates to a direction under section 21(2) of this Act, the authorised person shall allow, and shall specify in the notice, such period as appears to him to be reasonably required for taking the measures specified in the notice; and the notice shall not take effect before the end of the period so specified.
- (5) An enforcement notice which relates to a direction given under section 22, 23 or 24 of this Act must either—
 - (a) require the person to whom the direction was given to take the specified measures within a specified period which—
 - (i) where the measures consist of or include the construction, execution, alteration, demolition or removal of a building or other works, must not be less than thirty days beginning with the date of service of the notice, and
 - (ii) in any other case, must not be less than seven days beginning with that date; or
 - (b) require him not to do specified things, or cause or permit specified things to be done, until the specified measures have been taken.
- (6) Subject to section 33(2) of this Act, an enforcement notice requiring a person not to cause or permit anything to be done shall be construed as requiring him to take all such steps as in any particular circumstances are practicable and necessary to prevent that thing from being done.

31 Offences relating to enforcement notices

- (1) Any person who, without reasonable excuse, fails to comply with an enforcement notice served on him is guilty of an offence and liable—
 - (b) on conviction, to a fine.
- (2) Where a person is convicted of an offence under subsection (1) above, then, if without reasonable excuse the failure in respect of which he was convicted is continued after the conviction, he is guilty of a further offence and liable on conviction to a fine for each day on which the failure continues.
- (3) Any person who intentionally interferes with any building constructed or works executed on any land in compliance with an enforcement notice or with anything installed on, under, over or across any land in compliance with such a notice is guilty of an offence and liable—
 - (b) on conviction, to a fine.

32 Objections to enforcement notices

- (1) The person on whom an enforcement notice is served may serve on the Minister a notice in writing of his objection to the enforcement notice, specifying the grounds of the objection.
- (2) Any notice of objection under subsection (1) above must be served—
 - (a) where the enforcement notice specifies measures falling within section 30(5)(a)(i) of this Act, before the end of the period of thirty days beginning with the date on which the enforcement notice was served, or
 - (b) in any other case, before the end of the period of seven days beginning with that date.
- (3) The grounds of objection to an enforcement notice are—
 - (a) that the general requirements of the direction which are specified in the notice for the purposes of section 29(1)(a) of this Act have been complied with,
 - (b) that the notice purports to impose a requirement which could not have been imposed by a direction given under the provision under which the direction to which the notice relates was given, or
 - (c) that any requirement of the notice—
 - (i) is unnecessary for complying with the general requirements specified as mentioned in paragraph (a) above and should be dispensed with, or

- (ii) having regard to the terms of those general requirements, is excessively onerous or inconvenient and should be modified in a manner specified in the notice of objection under subsection (1) above.
- (4) Where the person on whom an enforcement notice is served serves a notice under subsection (1) above objecting to the enforcement notice, the Minister shall consider the grounds of the objection and, if so required by the objector, shall afford to him an opportunity of appearing before and being heard by a person appointed by the Minister for the purpose, and shall then serve on the objector a notice in writing either—
 - (a) confirming the enforcement notice as originally served, or
 - (b) confirming it subject to one or more modifications specified in the notice under this subsection, or
 - (c) cancelling the enforcement notice.
- (5) An enforcement notice to which an objection has been made under subsection (1) above—
 - (a) if it contains such a requirement as is mentioned in section 30(3) or (5)(b) of this Act, shall continue to have effect as originally served until it has been cancelled, or it has been confirmed subject to modification by a notice under subsection (4) above, and
 - (b) in any other case, shall not take effect until it has been confirmed (with or without modification) by a notice under subsection (4) above.

33 Enforcement notices: supplementary

- (1) An enforcement notice served on any person—
 - (a) may be revoked by a notice served on him by an authorised person, and
 - (b) may be varied by a further enforcement notice.
- (2) Sections 25 and 26 of this Act apply to an enforcement notice as they apply to the direction to which the notice relates.
- (3) The ownership of any property shall not be affected by reason only that it is placed on or under or affixed to, any land in compliance with an enforcement notice.
- (4) Where an authorised person has served an enforcement notice specifying the general requirements of a direction with which the person on whom it is served has, in the opinion of the authorised person, failed to comply, the person on whom the notice is served shall not be taken, for the purposes of section 21(8), 22(7), 23(3) or 24(7) of this Act, to have failed to comply with the direction by reason of the matters specified in the notice.

- (5) Subsection (4) above does not apply in relation to any proceedings commenced before the service of the enforcement notice.
- (6) Where an enforcement notice has been served in relation to a direction, the fact that the notice specifies certain general requirements of the direction as those with which the person on whom the notice is served has, in the opinion of the authorised person, failed to comply shall not in any proceedings be evidence that any other requirement of the direction has been complied with.
- (7) In this section “direction” means a direction under section 21, 22, 23 or 24 of this Act.

34 Operation of directions under Part III in relation to rights and duties under other laws

- (1) In subsections (2) to (4) below references to a direction are references to a direction under section 21, 22, 23 or 24 of this Act as the direction has effect subject to any limitation imposed on its operation—
 - (a) by section 26 of this Act, or
 - (b) by any exemption or immunity of the Crown;and any reference in those subsections to compliance with a direction is a reference to compliance with it subject to any limitation so imposed.
- (2) In so far as a direction requires anything to be done or not done in Jersey, the direction shall have effect notwithstanding anything contained in any contract (whether a Jersey contract or not) or contained in, or having effect by virtue of, any other Act or any rule of law; and accordingly no proceedings (whether civil or criminal) shall lie against any person in any Jersey court by reason of anything done or not done by him or on his behalf in compliance with a direction.
- (3) In so far as a direction requires anything to be done or not done at a place outside the Jersey, the direction shall have effect notwithstanding anything contained in any contract (whether a Jersey contract or not); and accordingly, where a direction is inconsistent with anything in such a contract, it shall (without prejudice to any proceedings in a court other than a Jersey court) be construed as requiring compliance with the direction notwithstanding that compliance would be in breach of that contract.
- (4) No proceedings for breach of contract shall lie against any person in a Jersey court by reason of anything done or not done by him or on his behalf at a place outside Jersey in compliance with a direction, if the contract in question is a Jersey contract.
- (5) Subsections (1) to (4) above have effect in relation to an enforcement notice as they have effect in relation to a direction under section 21, 22, 23 or 24 of this Act.

- (6) In this section “Jersey contract” means a contract which is either expressed to have effect in accordance with the law of Jersey or (not being so expressed) is a contract the law applicable to which is the law of Jersey.

35 Detention of ships

- (1) Where an authorised person is satisfied that the owner, charterer, manager or master of a ship has failed to comply with—
- (a) a direction given to him under section 21 or 24 of this Act in respect of that ship, or
 - (b) an enforcement notice which has been served on him in respect of that ship and which relates to such a direction,

and the authorised person certifies in writing to that effect, stating particulars of the non-compliance, the ship may be detained until the authorised person otherwise directs.

- (2) Where the authorised person does not himself detain the ship, he shall deliver the certificate to the officer detaining the ship.
- (3) On detaining the ship, the authorised person or other officer shall deliver to the master of the ship a copy of the certificate.
- (4) Article 177 of the Shipping (Jersey) Law 2002 (Enforcing detention of ship) applies in the case of detention under this section as if it were authorised or ordered under that Law.

36 Inspection of ships and harbour areas

- (1) For the purpose of enabling the Minister to determine whether to give a direction to any person under any of sections 21 to 24 of this Act, or of ascertaining whether any such direction or any enforcement notice is being or has been complied with, an authorised person shall have power, on production (if required) of his credentials, to inspect—
- (a) any British ship,
 - (b) any other ship while in a harbour area,
 - (c) any part of any harbour area, or
 - (d) any land outside a harbour area which is occupied for the purposes of a business by a person who—
 - (i) carries on (or appears to the authorised person to be about to carry on) harbour operations in a harbour area for the purposes of that business, or
 - (ii) is permitted (or appears to the authorised person to be about to be permitted) to have access to a restricted zone of a harbour area for the purposes of the activities of that business.

- (2) An authorised person inspecting a ship or any part of a harbour area or any land outside a harbour area under subsection (1) above shall have power—
- (a) to subject any property found by him on the ship (but not the ship itself or any apparatus or equipment installed in it) or, as the case may be, to subject that part of the harbour area or any property found by him there or on that land, to such tests,
 - (b) to take such steps—
 - (i) to ascertain what practices or procedures are being followed in relation to security, or
 - (ii) to test the effectiveness of any practice or procedure relating to security, or
 - (c) to require the owner, charterer, manager or master of the ship, the occupier of the land or any harbour operator to furnish to him such information,
- as the authorised person may consider necessary for the purpose for which the inspection is carried out.
- (3) Subject to subsection (4) below, an authorised person, for the purpose of exercising any power conferred on him by subsection (1) or (2) above in relation to a ship, in relation to a harbour area or in relation to any land outside a harbour area, shall have power—
- (a) for the purpose of inspecting a ship, to go on board it and to take all such steps as are necessary to ensure that it is not moved, or
 - (b) for the purpose of inspecting any part of a harbour area, to enter any building or works in the harbour area or enter upon any land in the harbour area, or
 - (c) for the purpose of inspecting any land outside a harbour area, to enter upon the land and to enter any building or works on the land.
- (4) The powers conferred by subsection (3) above shall not include power for an authorised person to use force for the purpose of going on board any ship, entering any building or works or entering upon any land.
- (5) Any person who—
- (a) without reasonable excuse, fails to comply with a requirement imposed on him under subsection (2)(c) above, or
 - (b) in furnishing any information so required, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular,

commits an offence.

- (6) A person guilty of an offence under subsection (5) above is liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.

36A Maritime security services: approved providers

- (1) In this section “maritime security service” means a process or activity carried out for the purpose of—
- (a) complying with a requirement of a direction under any of sections 21 to 24, or
- (b) facilitating a person’s compliance with a requirement of a direction under any of those sections.
- (2) The Minister may make an Order under this section.
- (3) An Order under this section may provide for the Minister to maintain a list of persons who are approved by him for the provision of a particular maritime security service.
- (4) An Order under this section may—
- (a) prohibit the provision of a maritime security service by a person who is not listed in respect of that service;
- (b) prohibit the use or engagement for the provision of a maritime security service of a person who is not listed in respect of that service;
- (c) create a criminal offence;
- (d) make provision about application for inclusion in the list (including provision about fees);
- (e) make provision about the duration and renewal of entries on the list (including provision about fees);
- (f) make provision about training or qualifications which persons who apply to be listed or who are listed are required to undergo or possess;
- (g) make provision about removal from the list which shall include provision for appeal;
- (h) make provision about the inspection of activities carried out by listed persons;
- (i) confer functions on the Minister or on a specified person;
- (j) confer jurisdiction on a court.

- (5) An Order under subsection (4)(c)—
- (a) may not provide for a penalty on conviction greater than a fine not exceeding level 4 on the standard scale, or imprisonment for a term not exceeding two years (or both); and
 - (b) may create a criminal offence of purporting, with intent to deceive, to do something as a listed person or of doing something, with intent to deceive, which purports to be done by a listed person.
- (6) In subsection (5) above “the standard scale” means the standard scale of fines for the time being in the Schedule to the Criminal Justice (Standard Scale of Fines) (Jersey) Law 1993.
- (7) A direction under any of sections 21 to 24 may—
- (a) include a requirement to use a listed person for the provision of a maritime security service;
 - (b) provide for all or part of the direction not to apply or to apply with modified effect where a listed person provides a maritime security service.
- (8) An Order under this section—
- (a) may make different provision for different cases,
 - (b) may include incidental, supplemental or transitional provision, and
 - (c) shall not be made unless the Minister has consulted organisations appearing to him to represent persons affected by the Order.
- (9) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made by the Minister under this section.

37 False statements relating to baggage, cargo etc.

- (1) Subject to subsection (3) below, a person commits an offence if, in answer to a question which—
- (a) relates to any baggage, cargo or stores (whether belonging to him or to another) that is or are intended for carriage by sea—
 - (i) by a British ship, or
 - (ii) by any other ship to or from Jersey, and
 - (b) is put to him for purposes to which this Part of this Act applies—
 - (i) by any of the persons mentioned in subsection (2) below,

- (ii) by any employee or agent of such a person in his capacity as employee or agent, or
- (iii) by a police officer,

he makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular.

- (2) The persons referred to in subsection (1)(b) above are—
 - (a) the Harbour Master,
 - (aa) a harbour operator,
 - (b) the owner, charterer or manager of any ship, and
 - (c) any person who—
 - (i) is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him, and
 - (ii) has control in that restricted zone over the baggage, cargo or stores to which the question relates.
- (3) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 36(2)(b) of this Act.
- (4) A person guilty of an offence under subsection (1) above is liable on conviction to a fine.

- (5) In this section—

“cargo” includes mail;

“ship” does not include a ship used in naval, customs or police service; and

“stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

38 False statements in connection with identity documents

- (1) Subject to subsection (4) below, a person commits an offence if—
 - (a) for the purpose of, or in connection with, an application made by him or another for the issue of an identity document to which this subsection applies, or
 - (b) in connection with the continued holding by him or another of any such document which has already been issued,

he makes to any of the persons specified in subsection (3) below, to any employee or agent of such a person or to a police officer, a statement which he knows to be false in a material particular, or recklessly makes to any of those persons, to any such employee or agent or to a police officer, a statement which is false in a material particular.

- (2) Subsection (1) above applies to any identity document which is to be or has been issued by any of the persons specified in subsection (3) below in accordance with arrangements the maintenance of which is required by a direction given by the Minister under section 24 of this Act.
- (3) The persons referred to in subsection (1) above are—
 - (a) the Harbour Master,
 - (b) a harbour operator,
 - (c) the owner, charterer or manager of any ship, and any person who is permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business carried on by him.
- (4) Subsection (1) above does not apply in relation to any statement made by an authorised person in the exercise of the power conferred by section 36(2)(b) of this Act.
- (5) A person guilty of an offence under subsection (1) above is liable on conviction to a fine.

39 Unauthorised presence in restricted zone

- (1) A person shall not—
 - (a) go, with or without a vehicle or vessel, onto or into any part of a restricted zone of a harbour area except with the permission of [the competent authority, or a person acting on behalf of that authority] and in accordance with any conditions subject to which that permission is for the time being granted, or
 - (b) remain in any part of such a restricted zone after being requested to leave by [the competent authority, or a person acting on behalf of that authority].
- (2) Subsection (1)(a) above does not apply unless it is proved that, at the material time, notices stating that the area concerned was a restricted zone were posted so as to be readily seen and read by persons entering the restricted zone.
- (3) A police officer or any person acting on behalf of the competent authority may use such force as is reasonable in the circumstances to remove from a restricted zone a person remaining in it in contravention of subsection (1)(b) above.

- (4) For the purposes of this section the competent authority in relation to a restricted zone is—#
- (a) if the zone was designated by the Minister otherwise than on the application of a harbour operator, the Harbour Master; and
 - (b) if the zone was designated on the application of a harbour operator, that operator.
- (5) A person who contravenes subsection (1) above without lawful authority or reasonable excuse is guilty of an offence and liable on conviction to a fine.

40 Offences relating to authorised persons

- (1) A person who—
- (a) intentionally obstructs an authorised person acting in the exercise of a power conferred on him by or under this Part of this Act, or
 - (b) falsely pretends to be an authorised person,
- commits an offence.
- (2) A person guilty of an offence under subsection (1)(a) above is liable—
- (b) on conviction, to a fine or to imprisonment for a term not exceeding two years or to both.
- (3) A person guilty of an offence under subsection (1)(b) above is liable on conviction to a fine.

41 Sea cargo agents

- (1) The Minister may by Order make provision, for purposes to which this Part of this Act applies, in relation to persons (in this section referred to as sea cargo agents) who carry on a business of handling cargo which is to be delivered (whether by them or any other person) to the owner, charterer or manager of any ship for carriage by sea from any harbour area.
- (2) An Order under this section may, in particular—
- (a) enable the Minister to maintain a list of sea cargo agents who are approved by him for purposes related to maritime security, to include the name of a sea cargo agent on that list, on application being made to the Minister in accordance with the Order, if he is satisfied as to such matters as are specified in the Order, and to remove the name of any person from that list in such circumstances as are so specified,
 - (b) provide that any provision of this Part of this Act which applies in relation to persons who are permitted to have access to a restricted zone of a harbour area for the purposes of the activities of a business (including any such provision which creates a criminal offence) shall

also apply, with such modifications as are specified in the Order, in relation to sea cargo agents included on any such list,

- (c) amend sections 37(2) and 38(3) of this Act by including references to sea cargo agents included on any such list,
 - (d) make provision (including any such provision as is mentioned in paragraphs (a) to (c) above) relating to a class of sea cargo agents specified in the Order and not to other sea cargo agents,
 - (e) make different provision for different cases, and
 - (f) make such incidental, supplementary or transitional provision as the Minister considers necessary or expedient in consequence of any provision made by the Order.
- (3) Before making any Order under this section the Minister shall consult organisations appearing to him to represent persons affected by the proposed Order.
- (4) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made by the Minister under this section.
- (5) Without prejudice to the generality of sections 21 and 24 of this Act, the exemptions that may be included in any direction given to an owner, charterer, manager or master of a ship under section 21 or 24 which requires the carrying out of searches of cargo, or the taking of any other measures in relation to cargo, include exemptions from such requirements in relation to cargo received from any sea cargo agent included on any list maintained by the Minister under an Order under this section or from any sea cargo agent falling within a class of such sea cargo agents specified in the direction.
- (6) In this section—
- “cargo” includes stores and mail;
- “carriage by sea” does not include carriage by any ship used in naval, customs or police service; and
- “stores” means any goods intended for sale or use in a ship, including fuel and spare parts and other articles of equipment, whether or not for immediate fitting.

42 Duty to report certain occurrences

- (1) For purposes to which this Part of this Act applies, the Minister may by Order require such persons as are specified in the Order to make a report to him, in such manner and within such period as are so specified, of any occurrence of a description so specified.

- (2) Before making any Order under this section, the Minister shall consult organisations appearing to him to represent persons affected by the proposed Order.
- (3) An Order under this section may—
 - (a) provide that any person who, in making a report required by the Order, makes a statement which he knows to be false in a material particular, or recklessly makes a statement which is false in a material particular, is to be guilty of an offence and liable on conviction to a fine or to imprisonment for a term not exceeding two years or to both; and
 - (b) provide for persons to be guilty of an offence in such other circumstances as may be specified in the Order and to be liable on conviction to a fine.
- (4) An Order under this section may require the reporting of occurrences taking place outside Jersey only if those occurrences relate to British ships.
- (5) The Subordinate Legislation (Jersey) Law 1960 shall apply to Orders made by the Minister under this section.

General supplemental provisions

43 Compensation in respect of certain measures taken under Part III

- (1) The provisions of this section have effect where, in compliance with a direction under section 24 of this Act or in compliance with an enforcement notice, the person to whom the direction was given or on whom the notice was served takes any measures consisting of the construction, execution, alteration, demolition or removal of a building or other works on land either within or outside a harbour area.
- (2) If the value of any interest in that land to which a person is entitled is depreciated in consequence of the taking of those measures, or the person having such an interest suffers loss in consequence of them by being disturbed in his enjoyment of any of that land, he is entitled to compensation equal to the amount of the depreciation or loss.
- (3) If any land other than the land on which the measures are taken is injuriously affected by the taking of those measures, any person having an interest in that other land who suffers loss in consequence of its being injuriously affected is entitled to compensation equal to the amount of the loss.
- (4) Any compensation to which a person is entitled under this section shall be payable to him by the person by whom the measures in question were taken.
- (5) The provisions of Schedule 2 to this Act have effect for the purposes of this section; and subsections (1) to (4) above have effect subject to the provisions of that Schedule.

[Section 44 not extended]

45 Service of documents

- (1) This section has effect in relation to any notice, any document containing a direction and any other document authorised or required by any provision of this Part of this Act to be served on or given to any person.
- (2) Any such document may be given to or served on any person—
 - (a) by delivering it to him, or
 - (b) by leaving it at his proper address, or
 - (c) by sending it by post to him at that address, or
 - (d) by sending it to him at that address by email or other similar means by which a document is or is able to be produced containing the text of the communication; or
 - (e) where—
 - (i) an address for service using electronic communications has been given by that person and not withdrawn in accordance with subsection (2E), and
 - (ii) that person has agreed to accept service by electronic communications of documents in a certain form and has not withdrawn that agreement accordance with that subsection,by using electronic communications to send the document in that form to that person at that address.
- (2A) A document given to or served on a person in accordance with subsection (2)(e) must be in a form sufficiently permanent to be used for subsequent reference.
- (2B) Where a document is given to or served on a person in accordance with subsection (2)(e), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the time at which the electronic communication is transmitted except where transmission is made outside that person’s normal business hours, in which case it is to be taken to have been given or served on the next working day, and in this subsection, “working day” means any day other than—
 - (a) a Saturday or a Sunday;
 - (b) Christmas Day or Good Friday; or
 - (c) a day which is a public or bank holiday under Article 2 of the Public Holidays and Bank Holidays (Jersey) Law 1951.

- (2C) A document authorised or required to be given to or served on a person by the Minister or an authorised person is also to be treated as given or served where—
- (a) that person and the Minister or (as the case may be) the authorised person have agreed to his having access to documents of a particular description and in a certain form on a web site (instead of their being given to or served on him in any other way specified in subsection (2));
 - (b) that person has not withdrawn his agreement in accordance with subsection (2F);
 - (c) the document in question is a document to which the agreement applies;
 - (d) the Minister or the authorised person has given that person a notice, in a manner agreed between them for the purpose—
 - (i) stating that the document has been published on a web site maintained by or on behalf of the Minister;
 - (ii) setting out the address of that web site; and
 - (iii) setting out the place on that web site where the document may be accessed and how it may be accessed by that person; and
 - (e) the published document is in a form sufficiently permanent to be used for subsequent reference.
- (2D) Where a document is given to or served on a person in accordance with subsection (2C), the document is, unless the contrary is proved, to be deemed to have been given to or served on that person at the same time as the notice required to be given under subsection (2C)(d) is given.
- (2E) A person who has supplied another person with an address for service using electronic communications and has agreed to accept service of documents in a certain form in accordance with subsection (2)(e) may give notice withdrawing that address or that agreement or both.
- (2F) A person who has an agreement with the Minister or an authorised person under subsection (2C)(a) may give notice withdrawing that agreement.
- (2G) A withdrawal under subsection (2E) or (2F) shall take effect on the later of—
- (a) the date specified by the person in the notice; and
 - (b) the date which is fourteen days after the date on which the notice is given.
- (2H) A notice under subsection (2E) or (2F) must be given to the person to whom the address was supplied or with whom the agreement was made.

- (2I) Oral notice is not sufficient for the purposes of subsection (2E) or (2F).
- (3) Any document authorised to be given to or served on a body corporate may be given to or served on the secretary, clerk or similar officer of that body.
- (4) For the purposes of this section and Article 7 of the Interpretation (Jersey) Law 1954 (meaning of service by post) in its application to this section, the proper address of any person to whom or on whom any document is to be given or served is his usual or last known address or place of business (whether in the Jersey or elsewhere), except that in the case of a body corporate or its secretary, clerk or similar officer it shall be the address of the registered or principal office of that body in Jersey (or, if it has no office in Jersey, of its principal office, wherever it may be).
- (5) In the case of a person registered under any of the Jersey registration provisions as the owner of any ship so registered, the address for the time being recorded in relation to him in the register in which the ship is registered shall also be treated for the purposes of this section and Article 7 of the Interpretation (Jersey) Law 1954 as his proper address.
- (6) If the person to or on whom any document mentioned in subsection (1) above is to be given or served has notified the Minister of an address within Jersey, other than an address determined under subsection (4) or (5) above, as the one at which he or someone else on his behalf will accept documents of the same description as that document, that address shall also be treated for the purposes of this section and Article 7 of the Interpretation (Jersey) Law 1954 as his proper address.
- (7) Any document mentioned in subsection (1) above shall, where there are two or more owners registered under any of the Jersey registration provisions, be treated as duly served on each of those owners—
- (a) in the case of a ship in relation to which a managing owner is for the time being registered under Regulations under the Shipping (Jersey) Law 2002, if served on that managing owner, and
 - (b) in the case of any other ship, if served on any one of the registered owners.
- (8) Where an enforcement notice is to be served under section 29 of this Act on the owner, charterer or manager of a ship, it shall be treated as duly served on him if it is served on the master of the ship in question, but (except as provided by section 29(3) of this Act) the master shall not be obliged by virtue of this subsection to comply with the notice.
- (9) Where any document mentioned in subsection (1) above is to be served (for the purposes of subsection (8) above or otherwise) on the master of a ship, it shall be treated as duly served if it is left on board that ship with the person being or appearing to be in command or charge of the ship.

- (10) In this section and in the definition of “British ship” in section 46 of this Act “the Jersey registration provisions” means Part 3 of the Shipping (Jersey) Law 2002.”.

46 Interpretation of Part III

- (1) In this Part of this Act, except in so far as the context otherwise requires—

“act of violence” shall be construed in accordance with section 18(2) of this Act;

“article” includes any substance, whether in solid or liquid form or in the form of a gas or vapour;

“authorised person” means a person authorised in writing by the Minister for the purposes of this Part of this Act;

“British ship” means a ship which—

- (a) is registered under the Jersey registration provisions; or
- (b) is not registered under the law of any country outside the British Islands and is entitled to be registered under the Jersey registration provisions;

“electronic communication” has the same meaning as in the Electronic Communications (Jersey) Law 2000;

“employee”, in relation to a body corporate, includes officer;

“enforcement notice” has the meaning given by section 29(1) of this Act;

“explosive” means any article manufactured for the purpose of producing a practical effect by explosion, or intended for that purpose by a person having the article with him;

“firearm” includes an airgun or air pistol;

“harbour” has the same meaning as in the Harbours (Administration) (Jersey) Law 1961;

“harbour area” has the meaning given by section 18(3) of this Act;

“harbour operations” means—

- (a) the marking or lighting of a harbour or any part of it;
- (b) the berthing or dry docking of a ship or the towing or moving of a ship into or out of or within the harbour area;
- (c) the transportation, handling or warehousing of goods within the harbour area; or

(d) the embarking, disembarking or movement of passengers within the harbour area;

“harbour operator” has the meaning given by section 20(10) of this Act;

“Harbour Master” has the same meaning as in the Harbours (Administration) (Jersey) Law 1961;

“Jersey” means the Bailiwick of Jersey;

“master” has the same meaning as in the Shipping (Jersey) Law 2002;

“measures” (without prejudice to the generality of that expression) includes the construction, execution, alteration, demolition or removal of any building or other works (whether on dry land or on the seabed or other land covered by water), and also includes the institution or modification, and the supervision and enforcement, of any practice or procedure;

“Minister” means the Minister for Economic Development of the States of Jersey;

“naval service” includes military and air force service;

“operating area” has the meaning given by section 20(10) of this Act;

“owner”, in relation to a ship registered in Jersey or in any other country, means registered owner;

“police officer” means a member of the Honorary Police or a member of the States of Jersey Police Force and includes any person having the powers of a police officer;

“property” includes any land, buildings or works, any ship or vehicle and any baggage, cargo or other article of any description,

“ship” includes every description of water craft, including a non-displacement craft, a WIG craft and a seaplane, that is used or is capable of being used as a means of transportation on, in or under water;

“WIG craft” has the same meaning as in Article 49 of the Shipping (Jersey) Law 2002.

- (2) Any power to give a direction under any provision of this Part of this Act includes power to revoke or vary any such direction by a further direction.
- (2A) In this Part of this Act “restricted zone” means an area designated under section 20 of this Act; and references to a restricted zone of a harbour area include references to a restricted zone which is or is part of an operating area.
- (3) For the purposes of this Part of this Act a person is permitted to have access to a restricted zone of a harbour area if he is permitted to enter that zone.

PART IV

MISCELLANEOUS AND GENERAL

Miscellaneous

[Sections 47 and 48 not extended]

General

[Section 49 not extended]

50 Offences by bodies corporate

- (1) Where an offence under Part II or Part III of this Act (including any provision of Part III as applied by an Order made under section 41 of this Act) or under an Order made under section 42 of this Act has been committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) above shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

[Sections 51–54 not extended]

[SCHEDULE 1 – FURTHER AMENDMENTS OF THE AVIATION SECURITY ACT 1982 – NOT EXTENDED]

Section 43

SCHEDULE 2

PROVISIONS RELATING TO COMPENSATION

- 1 This Schedule applies to compensation under section 43 of this Act (in this Schedule referred to as the principal section).
- 2 No compensation to which this Schedule applies shall be payable unless the person to whom it is payable in accordance with the principal section (or in accordance with an Order made under paragraph 5 below) serves on the person by whom the measures in question were taken a notice in writing claiming compensation under that section, and that notice is served before the end of the period of two years from the completion of the measures.
- 3 In relation to any measures taken by any person on land outside a harbour area, any reference in the principal section to a direction or enforcement notice, or to compliance with a direction or enforcement notice, is to be construed as if subsection (6) of section 26 of this Act were omitted.
- 4 In calculating value for any of the purposes of the principal section—

- (a) rules (2) to (4) of the rules set out in section 5 of the Land Compensation Act 1961 apply with the necessary modifications, and
- (b) if the interest to be valued is subject to a mortgage, it is to be treated as if it were not subject to the mortgage.

5 The Minister may by Order make provision—

- (a) requiring compensation to which this Schedule applies, in such cases as may be specified in the regulations, to be paid to a person other than the person entitled to it in accordance with the principal section,
- (b) as to the application of any compensation to which this Schedule applies, or any part of it, in cases where the right to claim compensation is exercisable by reference to an interest in land which is subject to a mortgage, or to a rentcharge, or to the trusts of a settlement, or
- (c) as to any assumptions to be made, or matters to be taken into or left out of account, for the purpose of assessing any compensation to which this Schedule applies.

7.—(1) Any dispute arising under the principal section or under this Schedule, whether as to the right to any compensation or as to the amount of any compensation, or otherwise, shall be referred to and determined by two arbitrators, one of whom shall be appointed by the Minister and the other by the person claiming the compensation save that, if an arbitrator is not appointed by the person claiming compensation, then he shall be nominated by the Minister and any arbitrator so nominated shall be deemed to be the arbitrator appointed by the person claiming the compensation.

(2) Arbitrators appointed under sub-paragraph (1) above shall, before commencing to determine any matter referred to them under this paragraph, nominate an umpire who shall determine the matter if the arbitrators disagree.

(3) The arbitrators or umpire, as the case may be, may refer to the Royal Court any question of law or of law mixed with fact arising in connection with any matter referred to them or him in such manner and within such time as may be prescribed by rules of court.

(4) Subject to sub-paragraph (3) above, the decision of the arbitrators or of the umpire, as the case may be, shall be final.

10 In this Schedule “mortgage” includes any charge or lien on any property for securing money or money’s worth, and any hypothec (*hypothèque*).

[SCHEDULE 3 – MINOR AND CONSEQUENTIAL AMENDMENTS – NOT EXTENDED]

[SCHEDULE 4 – REPEALS – NOT EXTENDED]