



Jersey

EMERGENCY POWERS AND PLANNING (JERSEY) LAW 1990

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Jersey

EMERGENCY POWERS AND PLANNING (JERSEY) LAW 1990

Arrangement

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Jersey

EMERGENCY POWERS AND PLANNING (JERSEY) LAW 1990¹

A LAW to constitute an Emergencies Council, to prescribe its functions and powers, to provide generally for planning in case of emergencies and to re-enact with amendments the provisions relating to the declaration of a state of emergency

Commencement [[see endnotes](#)]

PART 1

1 Emergencies Council

- (1) There shall be constituted an Emergencies Council (in this Law referred to as the “Council”) to be composed of –
 - (a) ²
 - (b) the Chief Minister, the Minister for Home Affairs, the Minister for Economic Development, the Minister for Transport and Technical Services and the Minister for Health and Social Services;
 - (c) a Connétable nominated by the Committee of Connétables.³
- (1A) The Chief Minister shall be the chairman of the Council.⁴
- (2) The Bailiff, the Lieutenant-Governor and the Attorney General shall be entitled to attend and be heard at any meeting of the Council.⁵

2 Functions of Council

- (1) The Council shall co-ordinate the planning, organization and implementation generally of measures which are designed to guard against, prevent, reduce, mitigate or overcome the effects or possible effects of any happening, event or circumstance that causes or may cause loss of life or injury or distress or hardship to persons or that in any way

endangers or may endanger the health or safety of the community or that in any way threatens to deprive the community of the necessities of life.

- (2) In this Article, the “community” includes a substantial proportion of the community and the expression “happening, event or circumstance” means any happening, event or circumstance which has occurred, is occurring or which may occur in the future.

3 Emergency Planning Officer

There shall be appointed an officer to be known as the “Emergency Planning Officer” who shall perform such duties as may from time to time be imposed on the officer by the Council.

4 Designation of competent authorities

The Council may by Act designate any Minister as a competent authority in relation to any Article of this Law.

5 Power of competent authority in relation to fuel and electricity

- (1) A competent authority may by Order provide for securing, regulating or prohibiting any one or more of the following, that is to say –
- (a) the production, supply or distribution of fuel and electricity;
 - (b) the acquisition of fuel and electricity;
 - (c) the use of fuel and electricity;
 - (d) the price at which fuel may be supplied.
- (2) Any provision made by an Order under paragraph (1) may be made in relation to fuel generally or in relation to any particular description of fuel and, in either case, may be made with respect to the supply, distribution, acquisition or use of fuel or of the description of the fuel in question, for all purposes or for any particular purpose specified in the Order.
- (3) An Order under paragraph (1) may empower a competent authority to give directions to –
- (a) any persons carrying on business as a producer of fuel or electricity, as to the production and use thereof;
 - (b) any person carrying on business as a supplier of fuel or electricity, as to the supply by the person thereof; and
 - (c) any person carrying on a business involving the use of fuel or electricity, as to the use by the person thereof for the purposes of that business.
- (4) Without prejudice to the generality of paragraph (2) –
- (a) a direction under paragraph (3)(a) may prohibit or restrict the use of any material for the production of fuel or electricity and may extend to the disposal of stocks of any such material;

- (b) a direction under paragraph (3)(b) may prohibit or restrict the supply of fuel or electricity to persons specified in the direction or to persons other than those so specified and, if the fuel is petroleum or a substance derived from petroleum, at such prices as may be so specified; and
 - (c) a direction under paragraph (3)(c) may prohibit or restrict the use of fuel or electricity for such purposes or during such periods as may be specified in the direction or for purposes or during periods other than those so specified.
- (5) Any person supplying or using fuel or electricity may, if authorized to do so by a competent authority by any general or special authority granted for the purpose, and while acting in accordance with that authority, disregard or fall short in discharging any obligation imposed by or under any enactment, or any contractual obligation, relating to or involving the supply or use of that substance.
- (6) At any time while an Order under paragraph (1) is in force, a competent authority may grant a general or special authority for the doing, during the whole or any part of the period for which the Order is in force, of all or any of the things mentioned in the following paragraphs and a person acting under and in accordance with such an authority may then –
 - (a) use, or cause or permit the use of, any motor vehicle on any route as an omnibus without any licence, permit, agreement or consent otherwise required and notwithstanding in particular that a licence has not been granted to the operators of the motor vehicle to operate an omnibus on the route in question in accordance with the provisions of the Motor Traffic (Jersey) Law 1935;⁶
 - (b) drive a public service vehicle without being licensed so to do under the said Motor Traffic (Jersey) Law 1935.
- (7) A competent authority may by Order make provision for modifying or excluding any obligation or restriction imposed, or extending any power conferred, by or under any enactment which directly or indirectly affects the supply or use of fuel or electricity.
- (8) A competent authority shall not make an Order under this Article except after consultation with the Jersey Electricity Company Limited or such other persons carrying on business as a producer, supplier or distributor of fuel, as appears to the competent authority to be appropriate.

6 Powers of competent authority in relation to telecommunications⁷

- (1) A competent authority may by Order provide for securing, regulating or prohibiting any one or more of the following –
 - (a) telecommunication services, telecommunication systems and apparatus;
 - (b) the use of those services, systems and apparatus.
- (2) A competent authority may by Order provide for regulating the price at which those services, systems and apparatus may be supplied.

- (3) Any provision made by Order under this Article may be made in relation to telecommunication services, telecommunication systems and apparatus generally or in relation to any particular description of those services, systems and apparatus and, in either case, may be made with respect to the supply, distribution, acquisition or use of those things or of a description of those things, for all purposes, or for any particular purpose stated in the Order.
- (4) An Order under this Article may empower a competent authority to give directions to –
 - (a) any persons carrying on business as a provider of telecommunication services, telecommunication systems or apparatus, as to the provision of those things;
 - (b) any person carrying on business involving the use of those things, as to the person's use of those things for the purposes of that business.
- (5) A competent authority may by Order make provision for suspending, modifying or excluding any contractual obligation, or any obligation or restriction imposed by or under any enactment, that directly or indirectly affects the provision or use of telecommunication services, telecommunication systems or apparatus, or for extending any power conferred by such an enactment.
- (6) A competent authority shall not make an Order under this Article except after consultation with the Jersey Competition Regulatory Authority established under the Competition Regulatory Authority (Jersey) Law 2001.⁸
- (7) In this Article, “apparatus”, “telecommunication service” and “telecommunication system” have the same meanings as in the Telecommunications (Jersey) Law 2002.⁹

6A Powers of competent authority in relation to postal services

- (1) A competent authority may by Order provide for securing, regulating or prohibiting any of the following –
 - (a) the provision, sale or use of services that may be used in the provision of any postal service or form the whole or part of any postal service;
 - (b) the provision, manufacture, sale or use of vehicles, or other equipment, that may be used in the provision of any postal service.
- (2) A competent authority may by Order provide for regulating charges and prices in respect of postal services or the acts, services, or things, referred to in paragraph (1).
- (3) Any provision made by Order under this Article may be made –
 - (a) in relation to postal services, or the acts, services, or things, referred to in paragraph (1), generally or in relation to any particular description of them;
 - (b) with respect to the supply, distribution, acquisition or use of postal services, or of the services or things referred to in paragraph (1), or

- of a particular description of them, for all purposes, or for any particular purpose; or
- (c) with respect to the acts referred to in paragraph (1), or of a particular description of them, for all purposes, or for any particular purpose.
- (4) An Order under this Article may empower a competent authority to give directions to any of the following –
- (a) a person carrying on business as a provider of postal services or of any services, or things, referred to in paragraph (1), as to the provision of those postal services, services or things;
- (b) a person carrying on business involving the use of postal services or of any services, or things, referred to in paragraph (1), as to the person's use of those postal services, services, or things, for the purposes of that business;
- (c) a person carrying on business involving any of the acts referred to in paragraph (1), as to those acts.
- (5) A competent authority may by Order make provision for suspending, modifying or excluding any contractual obligation, or any obligation or restriction imposed by or under any enactment that directly or indirectly affects the provision or use of postal services or the provision or use of the services, or things, referred to in paragraph (1) or directly or indirectly affects the acts referred to in paragraph (1), or for extending any power conferred by such an enactment.
- (6) A competent authority shall not make an Order under this Article except after consultation with the Jersey Competition Regulatory Authority established under the Competition Regulatory Authority (Jersey) Law 2001¹⁰.
- (7) In this Article, "postal service" has the same meaning as in the Postal Services (Jersey) Law 2004¹¹.

7 Powers of competent authority in relation to gas

Where a competent authority is satisfied, after consultation with the Jersey Gas Company Limited, that the supply of gas is for any reason threatened, a competent authority may, take such steps as it thinks necessary or desirable to secure or maintain the supply and, for this purpose, a competent authority may by Order provide for –

- (a) maintaining or making the best use of supplies of gas available for distribution;
- (b) conserving and making the best use of supplies of fuel or other material available for the manufacture of gas;
- (c) preserving public safety;
- (d) the suspension or modification of any restriction or obligation imposed on the Company by or under any enactment or any contractual obligation.

8 Powers of competent authority in relation to food

- (1) A competent authority may by Order provide for securing, regulating or prohibiting any one or more of the following, that is to say –
 - (a) the supply or distribution of food;
 - (b) the acquisition of food;
 - (c) the price at which food may be supplied.
- (2) Any provision made by an Order under paragraph (1) may be made in relation to food generally or in relation to any particular description of food and, in either case, may be made with respect to the supply, distribution or acquisition of food, or of the description of food in question, for all purposes or for any particular purposes specified in the Order.
- (3) Without prejudice to the provisions of this Article, an Order under paragraph (1) may empower a competent authority to give to any person carrying on business as a supplier of food directions as to the persons to whom he or she is to supply any such food as may be specified in the directions in accordance with such requirements as may be so specified or may, to such extent as may be specified in the directions, prohibit the supply of food to persons so specified.
- (4) Where any food is supplied to any person in pursuance of directions under paragraph (3), that person shall pay such price in respect of the food as may be reasonable.
- (5) In this Article, “food” includes every article used for human food or drink, other than drugs or water, any article which ordinarily enters into or is used in the composition or preparation of human food, any flavouring matter or condiments and all feeding stuffs for animals whether natural, artificial, dried or undried.

9 Powers of competent authority in relation to water

- (1) Where a competent authority is satisfied that a serious deficiency of water exists, or is likely to exist, in Jersey or in any area of Jersey, the authority may take such steps as it thinks necessary or desirable to remedy the deficiency and, for this purpose, may by Order –
 - (a) control, regulate, limit or prohibit the collection, abstraction, use or consumption of any water from any source either on the surface or underground;
 - (b) control, regulate, limit or prohibit the construction or alteration of any work for the collection or abstraction of any water from any source either on the surface or underground,and, after consultation with The Jersey New Waterworks Company Limited –
 - (c) control, regulate, limit or prohibit the supply of water by the Company;
 - (d) control, regulate, limit or prohibit the use or consumption of any water supplied by the Company;

- (e) give directions to the Company with respect to any matter prescribed in the Order;
 - (f) suspend or modify any restriction or obligation to which the Company is subject under the Water (Jersey) Law 1972.¹²
- (2) Any Order made under this Article may apply generally throughout Jersey, to specific areas of Jersey, to persons or consumers generally or to a specific class of person or consumer.
- (3) The provisions of any Order made under this Article are in addition to, and not in substitution for, the provisions of the Water (Jersey) Law 1972, and any enactment made thereunder.

10 Documents and information

For the purposes of enforcing any of the provisions of any Order made under Article 5, 6, 6A, 7, 8 or 9, a competent authority may, by directions given with respect to any undertaking, or Order made with respect to any class of undertaking, require the person carrying on the undertaking or persons carrying on undertakings of that class –

- (a) to keep such books, accounts and records as may be required by the directions or Order or by a notice served under the Order;
- (b) to furnish, at such times, in such manner and in such form as may be so required, such estimates, returns or information required.¹³

PART 2

11 State of emergency

- (1) If at any time it appears to the Lieutenant-Governor that there have occurred, or are about to occur, either inside or outside Jersey, events of such a nature as to threaten the national defence or the safety of the community, the Lieutenant-Governor may, after formal consultation with the Council, declare that a state of emergency exists.
- (2) Where the Lieutenant-Governor has declared a state of emergency to exist the Lieutenant-Governor shall forthwith inform the Bailiff of that fact and the Bailiff shall, as soon as may be, communicate the information to the States and shall, for the purpose, convene the States for such day as the Bailiff may appoint, being a day not more than 3 days after the making of the declaration, unless the States have already been convened to meet within that period.
- (3) No such declaration shall remain in force for more than 30 days, but the Lieutenant-Governor may make a further declaration at or before the end of that period.
- (4) Where the Lieutenant-Governor has declared a state of emergency to exist, and so long as the declaration is in force, it shall be lawful for the Council to make Orders for securing the essentials of life to the

community and those Orders may confer or impose on the Council or any competent authority, and on any body or person, such powers and duties as the Council may deem necessary for the preservation of the peace, for securing and regulating the supply and distribution of food, water, fuel, light, telecommunication services, postal services and other necessities, for maintaining the means of transit or locomotion and for any other purposes essential to the public safety and the health or life of the community and make such provisions incidental to the powers aforesaid (including the making by the States of compensation) as may appear to the Council to be required for making the exercise of those powers effective.¹⁴

PART 3

12 Provisions as to Orders, directions and Acts

- (1) Any Order made under this Law may confer or impose on any body or person such powers and duties as the Council or a competent authority may deem necessary to give effect generally to the provisions of this Law or any Order made thereunder.
- (2) Any Order made under this Law may include such incidental and supplementary provisions as the Council or a competent authority may think necessary or expedient to include.
- (3) Any Order made under this Law may make such provisions including provision for requiring any person to furnish any information as the Council or a competent authority thinks necessary or expedient for facilitating the introduction or operation of a scheme of control for which provision has been made, or for which, in the opinion of the Council or a competent authority, it will or may be found necessary or expedient that provision should be made.
- (4) Any Order made under this Law may prohibit the doing of anything regulated by the Order except under the authority of a licence granted by such authority or persons as may be specified in the Order, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class or description of persons or undertakings.
- (5) Any power conferred by any Article of this Law to give any direction shall be construed as a power, exercisable in like manner and subject to the like conditions, if any, to revoke or vary the direction.
- (6) No Order made under this Law shall –
 - (a) impose any form of compulsory military service or industrial conscription;
 - (b) impose penalties on any person for taking part in a strike or peacefully persuading any other person to take part in a strike.
- (7) No Order shall be made under this Law unless it has been approved by the Council and no such Order shall remain in force for more than 3 months, without prejudice to the right to renew such Order.

- (8) The Subordinate Legislation (Jersey) Law 1960,¹⁵ shall apply to any Order and any Act made under this Law.

13 Conflict with customary law

For the avoidance of doubt, it is declared that if, in the implementation of this Law and any Order made thereunder, any conflict arises between any rule of customary law and this Law or any such Order, then the provisions of this Law or any such Order shall prevail.

14 Production of documents

- (1) For the purposes of –
- (a) securing compliance with any Order made or direction given under this Law; or
 - (b) verifying any estimates, returns or information furnished in connection with this Law or any Order made or direction given thereunder,

any person duly authorized in that behalf by the Council or a competent authority may, on producing, if so required, evidence of his or her authority, require any person carrying on an undertaking or employed in connection with an undertaking to produce to the authorized person forthwith any documents relating to the undertaking which that authorized person may reasonably require for the purposes set out in this paragraph.

- (2) The power conferred by this Article to require any person to produce documents shall include power –
- (a) if the documents are produced –
 - (i) to take copies of them or extracts from them, and
 - (ii) to require that person, or in the case of a body corporate, any person who is a present or past officer of, or is employed by, the body corporate to provide an explanation of any of them;
 - (b) if the documents are not produced, to require the person who was required to produce them to state to the best of the person's knowledge and belief where they are.
- (3) If any requirement to produce documents or provide an explanation or make a statement which is imposed by virtue of this Article is not complied with, the person on whom the requirement was so imposed shall be guilty of an offence:

Provided that where a person is charged with an offence under this Article in respect of a requirement to produce any document, it shall be a defence to prove that they were not in the person's possession or under the person's control and that it was not reasonably practicable for the person to comply with the requirements.

- (4) If the Bailiff is satisfied on information on oath laid on behalf of the Council or a competent authority, that there are reasonable grounds for

suspecting that there are on any premises any documents of which production has been required by virtue of paragraph (3) and which have not been produced in compliance with that requirement, the Bailiff may issue a warrant authorizing any police officer, together with any other persons named in the warrant, to enter the premises specified in the information, using such force as is reasonably necessary for the purpose, and to search the premises and take possession of any documents appearing to be such documents aforesaid, or to take in relation to any documents so appearing any other steps which may appear necessary for preserving them and preventing interference with them.

- (5) Every warrant issued under this Article shall continue in force for 30 days after the date on which it is issued.
- (6) Any documents of which possession is taken under this Article may be retained for 90 days or, if within that period there are commenced any proceedings for an offence against this Law to which they are relevant, until the conclusion of those proceedings.

15 Notices, authorizations and proof of documents

- (1) Any notice required or authorized by or under this Law to be served on a corporation shall be duly served if it is served on the secretary or clerk of the corporation.
- (2) Any notice required or authorized by or under this Law to be served on any person may be served either –
 - (a) by delivering it to that person; or
 - (b) by sending it by registered post or the recorded delivery service addressed to the person at the person's usual place of abode or place of business.
- (3) Any permit, licence, permission or authorization granted for the purposes of this Law or any Order made thereunder may be revoked at any time by the competent authority or person empowered to grant it.
- (4) Every document purporting to be an instrument made or issued by the Council or any competent authority or person in pursuance of this Law or any Order made under this Law and to be signed on behalf of the Council or that competent authority or person shall be received in evidence and shall until the contrary is proved, be deemed to be an instrument made or issued by the Council or that competent authority or person.

16 False documents and false statements

- (1) Any person who, with intent to deceive –
 - (a) uses any document issued for the purposes of this Law or any Order made under this Law;
 - (b) has in the person's possession any document so closely resembling such a document as aforesaid as to be calculated to deceive; or
 - (c) produces, furnishes, sends or otherwise makes use of, for purposes connected with this Law or any Order made under this Law any

book, account, estimate, return, declaration or other document which is false in a material particular,

shall be guilty of an offence.

- (2) Any person who, in furnishing any information for the purposes of this Law or of any Order made under this Law, makes any statement which the person knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, shall be guilty of an offence.

17 Restriction on disclosing information

No information obtained under or by virtue of this Law or of any Order made under this Law shall be disclosed, otherwise than in connection with the execution of this Law or of any such Order, or for the purposes of any criminal proceedings, or of a report of any criminal proceedings and any person who discloses any such information in contravention of this Article shall be guilty of an offence.

18 Offences by corporations

Where an offence against this Law committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of any director, manager, agent, secretary or other similar officer of the body corporate or any person who was purporting to act in such a capacity, he or she as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

19 Offences and penalties

- (1) Any person who –
- (a) contravenes or fails to comply with any Order made, directions given or requirements imposed under this Law; or
 - (b) wilfully obstructs any person exercising a power or performing a duty conferred or imposed on the person under this Law,
- shall be guilty of an offence.
- (2) Any person who attempts to commit, conspires with any other person to commit, or does any act or makes any statement preparatory to the commission of, an offence against this Law shall be guilty of an offence.
- (3) Any person guilty of an offence against this Law shall be liable to imprisonment for a term not exceeding 2 years or to a fine.

20 Citation

This Law may be cited as the Emergency Powers and Planning (Jersey) Law 1990.

ENDNOTES**Table of Legislation History**

Legislation	Year and No	Commencement
Emergency Powers and Planning (Jersey) Law 1990	L.12/1990	21 September 1990
Emergency Powers and Planning (Amendment) (Jersey) Law 1996	L.26/1996	19 July 1996
Telecommunications (Jersey) Law 2002	L.1/2002	1 January 2003 (R&O.139/2002)
States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005	R&O.133/2005	9 December 2005
Emergency Powers and Planning (Amendment No. 2) (Jersey) Law 2006	L.9/2006	31 March 2006
Postal Services (Jersey) Law 2004	L.26/2004	1 July 2006 (R&O.51/2006)

Table of Renumbered Provisions

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(2)	spent, omitted from this revised edition

Table of Endnote References

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- ¹ *This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 12) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.*
- ² *Article 1(1)(a) deleted by L.9/2006*
- ³ *Article 1(1) amended by L.26/1996*
- ⁴ *Article 1(1A) inserted and amended by L.9/2006*
- ⁵ *Article 1(2) amended by L.9/2006*
- ⁶ *chapter 25.200*
- ⁷ *Article 6 inserted by L.1/2002*
- ⁸ *chapter 05.075*
- ⁹ *chapter 06.288*
- ¹⁰ *chapter 05.075*
- ¹¹ *Chapter 06.145*
- ¹² *chapter 27.700*
- ¹³ *Article 10 amended by L.1/2002, L.26/2004*
- ¹⁴ *Article 11(4) amended by L.1/2002, L.26/2004*
- ¹⁵ *chapter 15.720*