



Jersey

# **CONSUMER SAFETY (JERSEY) LAW 2006**

## **Official Consolidated Version**

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Jersey

## CONSUMER SAFETY (JERSEY) LAW 2006

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Jersey

## CONSUMER SAFETY (JERSEY) LAW 2006<sup>1</sup>

A **LAW** to protect consumers from goods that are not safe and for connected purposes.

Commencement [[see endnotes](#)]

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### PART 1

#### PRELIMINARY

#### 1 Interpretation

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

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

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

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

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

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

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

“information” includes accounts, estimates and returns;

“Minister” means the Minister for Sustainable Economic Development;

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

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

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

“producer” means –

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

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

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

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

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

“safety provision” means –

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

“supplier” means producer or distributor;

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

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

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

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

“withdrawal” means a measure aimed at preventing the supply or distribution of unsafe goods to the consumer.<sup>2</sup>

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

## 2 Meaning of “consumer goods”

- (1) In this Law “consumer goods” means any goods supplied or made available in the course of a commercial activity that are intended for consumers or likely under reasonably foreseeable circumstances conditions to be used by them even if not intended for them.
- (1A) Consumer goods include a product used to test whether or not a person is, or may have been infected or contaminated with Covid-19, as defined by the [Covid-19 \(Enabling Provisions\) \(Jersey\) Law 2020](#), regardless of whether or not that test is used by a consumer or administered to a consumer as part of a service provided by another person.<sup>3</sup>
- (2) Goods are consumer goods if they are made available in the context of providing a service.
- (3) It is immaterial whether or not the goods are supplied or made available in exchange for anything of value and whether they are new, used or reconditioned.
- (4) The following are not consumer goods –
  - (a) tobacco;
  - (b) second-hand goods supplied as antiques; and
  - (c) second-hand goods supplied for the purpose of repair or reconditioning before being used, provided that the supplier notifies the person supplied with the goods that they are for that purpose.
- (5) The States may, by Regulations, for any or all of the purposes of this Law, extend or restrict this definition.

## 3 Meaning of “safe”

- (1) In this Law “safe”, in relation to any consumer goods, means that under normal or reasonably foreseeable conditions of use, including –
  - (a) duration; and
  - (b) where applicable, putting the goods into service or their installation and maintenance requirements,the goods do not present any risk or only the minimum risks compatible with the use of the goods, such risks being considered as acceptable and consistent with a high level of protection for the safety and health of persons.
- (2) In assessing whether or not consumer goods are safe, account shall be taken in particular of –

- (a) the characteristics of the goods including their composition, packaging, instructions for assembly and, where applicable, for installation and maintenance;
  - (b) the effect on other goods, where it is reasonably foreseeable that they will be used with the goods;
  - (c) the presentation of the goods, the labelling, any warnings and instructions for use and disposal and any other indication or information regarding the goods; and
  - (d) the categories of consumers at risk when using the goods, in particular children and the elderly.
- (3) The fact that higher levels of safety may be obtained or other goods presenting a lesser degree of risk may be available shall not of itself cause the goods not to be considered safe.

## PART 2

### SAFETY

#### 4 The general safety requirement

- (1) Any consumer goods that are supplied must be safe.
- (2) If consumer goods comply with the requirements of any other enactment or any Safety Order that must be satisfied in order for the goods to be supplied, the goods are regarded as safe in respect of the matters covered by those requirements.
- (3) In circumstances other than those referred to in paragraph (2), whether consumer goods comply with the general safety requirement shall be assessed by taking into account –
  - (a) any safety requirements of the law of the United Kingdom or the European Union;
  - (b) any voluntary standards of safety established in Jersey;
  - (c) any voluntary national standards of the United Kingdom, including those giving effect to a European standard;
  - (d) any recommendations of the European Commission setting guidelines on the safety of goods;
  - (e) any codes of good practice in respect of safety in the sector concerned with those goods;
  - (f) the state of the art and technology; and
  - (g) reasonable consumer expectations concerning safety.<sup>4</sup>
- (4) The fact that consumer goods comply with criteria designed to ensure that the general safety requirement is met, in particular the provisions mentioned in paragraphs (2) and (3), does not prevent the Minister or a consumer safety inspector taking any measure considered appropriate to restrict the supply of, or require the withdrawal or recall of, the goods if there is evidence that, despite such compliance, the goods are not safe.

## **5 Duties of producers**

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

## **6 Duties of distributors**

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

## **7 Co-operation with Chief Consumer Safety Inspector**

- (1) If a supplier knows that he or she has supplied consumer goods that pose risks to the consumer that are incompatible with the general safety requirement, the supplier



must forthwith inform the Chief Consumer Safety Inspector and give details of the action that he or she proposes to take to prevent risk to the consumer.

- (2) A supplier must, within the limits of his or her activities and where so requested by the Chief Consumer Safety Inspector, cooperate with the Inspector in such manner as the Inspector may request, on action taken to avoid the risks posed by consumer goods that the supplier supplies or has supplied.

## **8 Functions of the Minister**

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

## **9 Safety Orders**

- (1) The Minister may make Orders, to be known as Safety Orders, for the purpose of securing –
  - (a) that goods to which this Article applies are safe;
  - (b) that goods to which this Article applies that are not safe, or would not be safe in the hands of persons of a particular description, are not made available to persons generally or, as the case may be, to persons of that description; and
  - (c) that appropriate information is provided, and inappropriate information is not provided, in relation to goods to which this Article applies.
- (2) Without prejudice to the generality of paragraph (1), a Safety Order may contain provision –

- (a) with respect to the composition or contents, design, construction, finish or packing of goods to which this Article applies, with respect to standards for such goods and with respect to other matters relating to such goods;
  - (b) with respect to the giving, refusal, alteration or cancellation of approvals of such goods, of descriptions of such goods or of standards for such goods;
  - (c) with respect to the conditions that may be attached to any approval given under the Order;
  - (d) for requiring such fees as may be determined by or under the Order to be paid on the giving or alteration of any approval under the Order and on the making of an application for such an approval or alteration;
  - (e) with respect to appeals against refusals, alterations and cancellations of approvals given under the Order and against the conditions contained in such approvals;
  - (f) for requiring goods to which this Article applies to be approved under the Order or to conform to the requirements of the Order or to descriptions or standards specified in or approved by or under the Order;
  - (g) with respect to the testing or inspection of goods to which this Article applies, including provision for determining the standards;
  - (h) with respect to the ways of dealing with goods of which some or all do not satisfy a test required by or under the Order or a standard connected with a procedure so required;
  - (i) for requiring a mark, warning or instruction or any other information relating to goods to be put on or to accompany the goods or to be used or provided in some other manner in relation to the goods, and for securing that inappropriate information is not given in relation to goods either by means of misleading marks or otherwise;
  - (j) for prohibiting persons from supplying goods to which this Article applies and component parts and raw materials for such goods; and
  - (k) for requiring information to be given to any such person as may be determined by or under the Order for the purpose of enabling that person to exercise any function conferred on the person by the Order.
- (3) A Safety Order may also contain provision –
- (a) for requiring consumer safety inspectors to have regard, in exercising their functions in relation to any provision of the Safety Order, to matters specified in a direction issued by the Minister with respect to that provision;
  - (b) that a person is not guilty of an offence of contravening any requirement of a Safety Order unless it is shown that the goods in question do not conform to a particular standard; and
  - (c) for determining the persons by whom, and the manner in which, anything required to be done by or under the order is to be done.
- (4) Before making a Safety Order the Minister shall consult –
- (a) such organisations as appear to the Minister to be representative of interests substantially affected by the proposal; and
  - (b) such other persons as the Minister considers appropriate.

- (5) However, paragraph (4) does not apply if –
  - (a) the Minister considers that in order to protect the public the Order should be made without delay; and
  - (b) the Order provides for it to cease to have effect within 12 months of its commencement.
- (6) This Article applies to all consumer goods except goods all aspects of the safety of which are governed by any other enactment.

### **PART 3**

#### **ENFORCEMENT**

#### **10 Appointment of consumer safety inspectors**

- (1) Every person appointed pursuant to Article 2 of the [Weights and Measures \(Jersey\) Law 1967](#) shall, by virtue of such appointment, be a consumer safety inspector.
- (2) The Minister may appoint such other persons to be consumer safety inspectors as the Minister thinks fit.
- (3) The persons appointed pursuant to Article 2 of the [Weights and Measures \(Jersey\) Law 1967](#) as the Chief Inspector of Weights and Measures and Deputy Chief Inspector of Weights and Measures shall, by virtue of such appointment, be the Chief Consumer Safety Inspector and the Deputy Chief Consumer Safety Inspector respectively.

#### **11 Powers of consumer safety inspectors**

- (1) A consumer safety inspector may, for the purposes of carrying out any of the functions of the Minister under this Law and subject to the production if so required, of evidence of the inspector's authority, at any reasonable time enter any premises (other than premises used only as a dwelling) –
  - (a) to ascertain whether there has been any contravention of any safety provision;
  - (b) to make such examination and investigation as may in the circumstances be necessary;
  - (c) to inspect any goods for the purpose of ascertaining whether there has been any contravention of any safety provision and, if the inspector considers appropriate, to purchase, take sample of or seize and detain any goods for the purposes of subjecting them to safety checks;
  - (d) to direct that any goods in the premises shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purpose of any examination or investigation;
  - (e) to take such measurements and photographs and make such recordings as the inspector considers necessary for the purpose of any examination or investigation;
  - (f) to require any person whom the inspector has reasonable cause to believe to be able to give any information relevant to any examination or investigation

to answer (in the absence of persons other than a person nominated by that person to be present and any persons whom the inspector may allow to be present) such questions as the inspector thinks fit to ask and to sign a declaration of the truth of the answers;

- (g) to require the production of, inspect, and take copies of or of any entry in –
    - (i) any books or documents that are required to be kept by virtue of any of the relevant statutory provisions, and
    - (ii) any other books or documents that it is necessary for the inspector to see for the purposes of any examination or investigation;
  - (h) to require any person to afford the inspector such reasonable facilities and reasonable assistance with respect to any matters or things within that person's control or in relation to which that person has responsibilities as are necessary to enable the inspector to exercise any of the powers conferred on the inspector by this Article; and
  - (i) to exercise any other power which is necessary for the purpose of this Article.
- (2) If the Bailiff or a Jurat is satisfied that there is reasonable ground for an inspector to enter any premises (excluding premises used only as a dwelling) for any purpose mentioned in paragraph (1) and either –
- (a) that admission to the premises has been refused, or a refusal is expected, and that notice of the intention to apply for a warrant has been given to the occupier; or
  - (b) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the case is one of urgency, or that the premises are unoccupied or the occupier is absent,
- the Bailiff or Jurat, as the case may be, may issue a warrant, which shall continue in force for a period of one month, authorizing an inspector to enter the premises for that purpose, if need be by reasonable force.
- (3) An inspector entering any premises by virtue of this Article may –
- (a) be accompanied by such other persons as the inspector considers necessary to give adequate assistance; and
  - (b) take along any equipment or materials required for any purpose for which the power of entry is being exercised.
- (4) If the premises are unoccupied the inspector shall leave them as effectively secured against unauthorized entry as they were prior to entry.
- (5) A person who is not an inspector who purports to act as such is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.<sup>5</sup>

## **12 Action in respect of consumer goods that may pose risks**

- (1) If a consumer safety inspector has reasonable grounds for suspecting that any consumer goods could pose risks in certain conditions, the inspector may serve on any person either or both of the following notices –
- (a) a notice requiring the person to mark the goods with suitable and easily comprehensible warnings of the risks; or

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

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

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

### **14 Action in respect of consumer goods that are not safe**

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

### **15 General provisions affecting safety notices**

- (1) Before serving a safety notice a consumer safety inspector shall afford the person on whom it is served a reasonable opportunity to make representations or to comply

with the matters set out in the notice on a voluntary basis unless it is in the circumstances not expedient to do so.

- (2) A safety notice shall –
  - (a) describe the goods to which it relates in a manner sufficient to identify them;
  - (b) set out the grounds on which it has been served and any steps to be taken that will result in the revocation of the notice; and
  - (c) state that, and the manner in which, the person may appeal against the notice in accordance with Article 21.
- (3) A safety notice may contain such supplementary conditions or requirements as the Minister considers appropriate.
- (4) A person who contravenes a safety notice is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.<sup>6</sup>

## 16 Power to obtain information

- (1) If the Minister considers that in order to decide whether –
  - (a) to make, vary or revoke a safety order; or
  - (b) a safety notice should be served, varied or revoked,further information is required that another person is likely to be able to furnish, the Minister may serve an information notice on that person.
- (2) An information notice may require the person –
  - (a) to furnish to the Minister, within a period specified in the notice, such information as is specified; and
  - (b) to produce such records as are specified in the notice at a time and place so specified and to permit a consumer safety inspector to take copies of the records at that time and place.
- (3) A person who –
  - (a) without reasonable cause contravenes an information notice served on the person; or
  - (b) in purporting to comply with a requirement that by virtue of paragraph (2)(a) is contained in such a notice –
    - (i) furnishes information that the person knows is false in a material particular, or
    - (ii) recklessly furnishes information that is false in a material particular,is guilty of an offence and liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.<sup>7</sup>

## 17 Power of customs officer to seize and detain goods

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

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

## 18 Forfeiture

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

## 19 Offences

A person who –

- (a) contravenes any provision of Article 5, 6 or 7;
- (b) contravenes any requirement of a Safety Order; or

- (c) in giving any information that a Safety Order requires the person to give –
- (i) makes a statement that he or she knows to be false in a material particular, or
  - (ii) recklessly makes a statement that is false in a material particular,
- is guilty of an offence and liable to imprisonment for a term of 6 months and to a fine of level 3 on the standard scale.<sup>8</sup>

## 20 Obstruction

- (1) A person who –
- (a) intentionally obstructs any consumer safety inspector or customs officer acting in pursuance of any provision of this Law;
  - (b) intentionally contravenes any requirement of a consumer safety inspector under any provision of this Law; or
  - (c) without reasonable cause fails to give any consumer safety inspector who is so acting any other assistance or information that the inspector may reasonably require for the purposes of the exercise of the inspector's functions under any provision of this Law,
- is guilty of an offence.
- (2) A person is guilty of an offence if, in giving any information which is required of the person by virtue of paragraph (1)(c) the person –
- (a) makes any statement that the person knows is false in a material particular; or
  - (b) recklessly makes a statement that is false in a material particular.
- (3) A person guilty of an offence under this Article is liable to imprisonment for a term of 6 months and a fine of level 3 on the standard scale.<sup>9</sup>

## 21 Appeals against safety notices

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

## 22 Appeals against detention of consumer goods

- (1) Any person having an interest in any consumer goods that are for the time being detained under any provision of this Law by the Minister or a consumer safety



inspector may apply to the Royal Court for an order requiring the goods to be released to that person or to another person.

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

### **23 Compensation where no fault**

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

### **24 Recovery of expenses of enforcement**

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

## PART 4

### MISCELLANEOUS

#### 25 Power of the Agent of the Impôts to disclose information

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

#### 26 Power of Minister to disclose information

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

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

#### 27 Restrictions on disclosure of information

- (1) A person who discloses any information that –
  - (a) was obtained by the person in consequence of –
    - (i) its being given to any person in compliance with any requirement imposed by a safety order,
    - (ii) the exercise by the Minister of the power conferred by Article 16, or
    - (iii) the exercise by any person of any power conferred by Part 3;
  - (b) consists of a secret manufacturing process or a trade secret obtained by the person in consequence of the inclusion of the information in any representations made in connection with a notice, other than a disclosure to the Minister of information relevant for ensuring the effectiveness of market monitoring and surveillance activities; or
  - (c) was disclosed to the person under Article 25,  
is guilty of an offence and liable to imprisonment for a term of 2 years or a fine.
- (2) However, paragraph (1) shall not apply to a disclosure of information if –

- (a) the information has been –
  - (i) disclosed in any civil or criminal proceedings, or
  - (ii) required to be contained in a warning in pursuance of Article 12; or
- (b) the disclosure –
  - (i) relates to the safety properties of consumer goods and is necessary to protect the health and safety of consumers,
  - (ii) is made for the purpose of facilitating the exercise of any function under this Law, or
  - (iii) is made in connection with the investigation of any criminal offence or for the purposes of any civil or criminal proceedings.

## 28 Defence of due diligence

- (1) Subject to the following provisions of this Article, in proceedings against any person for an offence to which this Article applies it is a defence for that person to prove that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) Where in any proceedings against any person for such an offence the defence provided by paragraph (1) involves an allegation that the commission of the offence was due to –
  - (a) the act or default of another; or
  - (b) reliance on information given by another,that person shall not, without the leave of the court, be entitled to rely on the defence unless, not less than 7 clear days before the hearing of the proceedings, he or she has served a notice under paragraph (3) on a Centenier having jurisdiction in the matter or the Attorney General as the case may be.<sup>10</sup>
- (3) A notice under this paragraph must give such information identifying or assisting in the identification of the person who committed the act or default or gave the information as is in the possession of the person serving the notice at the time it is served.
- (4) A person is not entitled to rely on the defence provided by paragraph (1) by reason of reliance on information supplied by another, unless he or she shows that it was reasonable in all the circumstances to have relied on the information, having regard in particular –
  - (a) to the steps that the person took, and those which might reasonably have been taken, for the purpose of verifying the information; and
  - (b) to whether he or she had any reason to disbelieve the information.<sup>11</sup>
- (5) This Article applies to any offence under Article 15(4) or 19.

## 29 Liability of persons other than principal offender

- (1) Where the commission by any person of an offence to which Article 28 applies is due to an act or default committed by some other person in the course of any commercial activity of the person's, the other person is guilty of the offence and may

be proceeded against and punished by virtue of this paragraph whether or not proceedings are taken against the first-mentioned person.

- (2) Where an offence under this Law committed by a limited liability partnership or body corporate is proved to have been committed (including as a result of paragraph (1)) with the consent or connivance of, or to be attributable to any neglect on the part of –
  - (a) a person who is a partner of the partnership, or director, manager, secretary or other similar officer of the body corporate; or
  - (b) any person who was purporting to act in any such capacity,that person is also guilty of the offence and liable in the same manner as the partnership or body corporate to the penalty provided for the offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (2) applies in relation to the acts and defaults of a member in connection with the member's functions of management as if the member were a director of the body corporate.
- (4) Any person who aids, abets, counsels or procures the commission of an offence under this Law is also guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.

### 30 Civil proceedings

- (1) An obligation imposed by a Safety Order is a duty owed to any person who may be affected by a contravention of the obligation and, subject to any provision to the contrary in the Order and to the defences and other incidents that may be applicable, a contravention of any such obligation is actionable –
  - (a) on the ground of *vice rédhibitoire*; or
  - (b) as a breach of statutory duty,or both.
- (2) This Law shall not be construed as conferring any other right of action in civil proceedings in respect of any loss or damage suffered in consequence of a contravention of a safety provision.
- (3) Subject to any provision to the contrary in the agreement itself, an agreement is not void or unenforceable by reason only of a contravention of a safety provision.
- (4) Liability by virtue of paragraph (1) cannot be limited or excluded –
  - (a) by any contract term;
  - (b) by any notice; or
  - (c) subject to the power in paragraph (1) to limit or exclude it in a Safety Order, by any other provision.
- (5) Nothing in paragraph (1) shall prejudice the operation of section 12 of the Nuclear Installations Act 1965 of the United Kingdom (rights to compensation for certain breaches of duties confined to rights under that Act) as extended to Jersey by the Nuclear Installations (Jersey) Order 1980.
- (6) In this Article “damage” includes personal injury and death.

### 31 Service of documents

- (1) Any document required or authorized by virtue of this Law to be served on a person may be so served –
  - (a) by delivering it to the person or by leaving it at the person's proper address or by sending it by post to the person at that address;
  - (b) if the person is a body corporate, by serving it in accordance with subparagraph (a) on the secretary or clerk of that body, or in the case of a limited liability partnership, on a member of the partnership; or
  - (c) if the person is a partnership, by serving it in accordance with subparagraph (a) on a partner or on a person having control or management of the partnership business.
- (2) For the purposes of paragraph (1), and for the purposes of Article 7 of the [Interpretation \(Jersey\) Law 1954](#) (which relates to the service of documents by post) in its application to paragraph (1), the proper address of any person on whom a document is to be served by virtue of this Law is the person's last known address, except that –
  - (a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body corporate (or in the case of a limited liability partnership or a member of the partnership, the address of the registered or principal office of the partnership);
  - (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the principal office of the partnership,

and for the purposes of this paragraph the principal office of a body corporate registered outside Jersey or of a partnership carrying on a commercial activity outside Jersey is its principal office within Jersey.

### 32 Savings for certain privileges

- (1) Nothing in this Law shall be taken as requiring any person to produce any records if the person would be entitled to refuse to produce those records in any proceedings in any court on the grounds that they are the subject of legal professional privilege or as authorizing any person to take possession of any records that are in the possession of a person who would be so entitled.
- (2) Nothing in this Law shall be construed as requiring a person to answer any question or give any information if to do so would incriminate that person or that person's spouse or civil partner.<sup>12</sup>

### 33 Orders

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

**34 Citation**

This Law may be cited as the Consumer Safety (Jersey) Law 2006.

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement
Consumer Safety (Jersey) Law 2006	<a href="#">L.18/2006</a>	1 November 2006 ( <a href="#">R&amp;O.112/2006</a> )
Civil Partnership (Jersey) Law 2012	<a href="#">L.4/2012</a>	2 April 2012
Connétables (Miscellaneous Provisions – Consequential Amendments) (Jersey) Regulations 2014	<a href="#">R&amp;O.81/2014</a>	1 August 2014 ( <a href="#">R&amp;O.80/2014</a> )
European Union Legislation (Implementation) (Jersey) Law 2014	<a href="#">L.28/2014</a>	31 October 2014
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	<a href="#">R&amp;O.158/2015</a>	1 January 2016
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	<a href="#">L.1/2016</a>	20 September 2016 ( <a href="#">R&amp;O.98/2016</a> )
Covid-19 (Control of Testing) (Jersey) Regulations 2020	<a href="#">R&amp;O.96/2020</a>	15 July 2020
States of Jersey (Ministerial Offices – Minister for Sustainable Economic Development) Order 2023	R&O/102/2023	24 November 2023

### Table of Renumbered Provisions

Original	Current
34	Spent, omitted
35	Spent, omitted
36(1)	34
36(2) to (4)	Spent, omitted
Schedule	Spent, omitted

### Table of Endnote References

- <sup>1</sup> *This Law is amended by Article 35 thereof (accordingly spent, omitted from this revised edition) so as to replace references to the Economic Development Committee with references to the Minister for Economic Development, consequentially upon the move from a committee system of government to a ministerial system of government amended by R&O.158/2015, R&O.102/2023 inserted by R&O.96/2020*
- <sup>2</sup> *Article 1(1)*
- <sup>3</sup> *Article 2(1A)*
- <sup>4</sup> *Article 4(3)* amended by [L.28/2014](#)
- <sup>5</sup> *Article 11(5)* amended by [L.1/2016](#)
- <sup>6</sup> *Article 15(4)* amended by [L.1/2016](#)
- <sup>7</sup> *Article 16(3)* amended by [L.1/2016](#)
- <sup>8</sup> *Article 19* amended by [L.1/2016](#)

- <sup>9</sup> *Article 20(3)*                      *amended by L.1/2016*
- <sup>10</sup> *Article 28(2)*                    *amended by R&O.81/2014*
- <sup>11</sup> *Article 28(4)*                    *editorial change, “not be entitled” deleted, “not entitled” inserted instead*
- <sup>12</sup> *Article 32(2)*                    *amended by L.4/2012*