STATUTORY INSTRUMENTS

1978 No. 1528

ATOMIC ENERGY AND RADIOACTIVE SUBSTANCES

The Nuclear Installations (Guernsey) Order 1978

Made - - - - 24*th October* 1978

Coming into Operation 25*th October* 1978

At the Court at Buckingham Palace, the 24th day of October 1978

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 28(1) of the Nuclear Installations Act 1965(**a**), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Nuclear Installations (Guernsey) Order 1978 and shall come into operation on 25th October 1978.

2.—(1) In this Order "Guernsey" means the Bailiwick of Guernsey and the territorial waters adjacent thereto.

(2) In this Order "the Act" means (without prejudice to paragraph 1(*a*) of the Schedule to this Order) the Nuclear Installations Act 1965 as amended by or under the Nuclear Installations Act 1969(**b**), the Atomic Energy Authority Act 1971(**c**) or any subsequent enactment.

(3) The Interpretation Act 1889(**d**) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3. Sections 10 to 17, 21 to 26 and 30 of the Act and Schedule 2 thereto shall extend to Guernsey with the exceptions, adaptations and modifications specified in the Schedule to this Order.

N. E. Leigh,
Clerk of the Privy Council.

SCHEDULE

EXCEPTIONS, ADAPTATIONS AND MODIFICATIONS IN THE EXTENSION OF SECTIONS 10 TO 17, SECTIONS 21 TO 26 AND SECTION 30 OF AND SCHEDULE 2 TO THE NUCLEAR INSTALLATIONS ACT 1965 TO GUERNSEY

1. Subject as hereinafter provided, the provisions referred to in Article 3 of this Order shall have effect as if—

(*a*) the Nuclear Installations Act 1965 etc. (Repeals and Modifications) Regulations 1974(**e**) (repeals and modifications consequential on the Health and Safety at Work etc. Act 1974(**f**)) had not been made, and

(**a**) 1965 c. 57. (**b**) 1969 c. 18. (**c**) 1971 c. 11.
(**d**) 1889 c. 63. (**e**) S.I. 1974/2056. (**f**) 1974 c. 37.

(*b*) any reference therein to any provision of the Act or of any other enactment were a reference to that provision as it has effect in Guernsey.

2. For Section 10 there shall be substituted the following section:—

"10. In the case of any nuclear matter which is not excepted matter and which—

(*a*) is in the course of carriage on behalf of a relevant operator; or

(*b*) is in the course of carriage to such an operator's relevant installation with the written agreement of that operator from a place outside the relevant territories; or

(*c*) having been in such an operator's relevant installation or in the course of carriage on behalf of such an operator, has not subsequently been in any relevant installation or in the course of any relevant carriage or (except in the course of relevant carriage) within the territorial limits of a country which is not a relevant territory,

it shall be the duty of that operator to secure that no occurrence taking place wholly or partly within the territorial limits of Guernsey causes injury to any person or damage to any property of any person other than that operator, being injury or damage arising out of or resulting from the radioactive properties, or a combination of those and any toxic, explosive or other hazardous properties, of that nuclear matter.".

3. In section 11 for the words " the United Kingdom " there shall be substituted the word " Guernsey " and for sub-paragraph (*a*) and (*b*) there shall be substituted the words " the carriage is not relevant carriage ".

4. For section 12(1) there shall be substituted the following subsection:—

" (1) Where any injury or damage has been caused in breach of the duty imposed by section 10 of this Act—

(*a*) subject to sections 13(4), 15, 16(2) and 17(1) of this Act, compensation in respect of that injury or damage shall be payable wherever the injury or damage was incurred;

(*b*) subject to subsections (3) and (4) of this section and to section 21(2) of this Act, no other liability shall be incurred by any person in respect of that injury or damage.".

5. Section 12(3A) shall be omitted.

6. In section 12(4)—

(*a*) the words " or in subsection (3A) " shall be omitted;

(*b*) for paragraph (*a*) (repealed by section 6(3) of the Carriage of Goods by Sea Act 1971)(a) there shall be substituted the following paragraph:—
" (*a*) the operation of the Loi ayant rapport au Transport de Marchandises sur Mer; or ";

(*c*) in paragraph (c) the references to an Act shall include a reference to a law of the States of Guernsey, the States of Alderney or the Chief Pleas of Sark.

7. In section 13—

(*a*) subsections (1) to (3) shall be omitted;

(*b*) in subsection (4)—

(i) the words " 7, 8 and 9," shall be omitted;

(ii) in paragraph (*a*) for the words " the United Kingdom " there shall be substituted the word " Guernsey ";

(iii) in paragraph (*b*) after the word " shall " there shall be inserted the words " subject to section 16(2) of this Act ";

(a) 1971 c. 19.

(*c*) for subsection (5) there shall be substituted the following subsection:—

" (5) Where, in the case of an occurrence which constitutes a breach of the duty imposed by section 10 of this Act, a person other than the person subject to that duty makes any payment in respect of injury or damage caused by that occurrence and—

(*a*) the payment is made in pursuance of any of the following five international Conventions, that is to say, the draft Convention (setting out rules relating to bills of lading) of the International Conference on Maritime Law held at Brussels in October 1922, as amended in October 1923, the Convention for the unification of certain rules relating to international carriage by air concluded at Warsaw on 12th October 1929, the Warsaw Convention as amended at the Hague in 1955, the Convention Supplementary to the Warsaw Convention held at Guadalajara in 1961 for the unification of certain rules relating to international carriage by air performed by a person other than the contracting carrier and the Convention on the Contract for the international carriage of goods by road signed at Geneva on 19th May 1956, or

(*b*) the injury or damage was incurred in a country which is not a relevant territory and the payment is made by virtue of a law of that country and by a person who has his principal place of business in a relevant territory or is acting on behalf of such a person,

the person making the payment may make the like claim under this Act for compensation of the like amount, if any, not exceeding the amount of the payment made by him as would have been available to him if the injury in question had been suffered by him, or as the case may be, the property suffering the damage in question had been his.";

(*d*) in subsection (6) the words " 7, 8, 9 or " shall be omitted.

8. In section 14(1), the words " 7(2)(*b*) or (*c*)," and " 7, 8, 9," shall be omitted and for the words after " aircraft;" where it first occurs, to and including the words "Schedule 1 " there shall be substituted the words "and section 3(3) and (4) of the Administration of Justice Act 1956 as extended to Guernsey by the Admiralty Jurisdiction (Guernsey) Order 1966(**a**) (which relates to the bringing of actions in rem against ships or aircraft)".

9. Section 14(2) shall be omitted.

10. In section 15(1)—

(*a*) the words " and to section 16(3) of this Act " shall be omitted;

(*b*) for the words " any of sections 7 to 11 " there shall be substituted the words "section 10 or 11 ";

(*c*) for the word " thirty " there shall be substituted the word " ten ";

(*d*) the words from " or was one " to " particular operation " and the words " or succession of occurrences " shall be omitted.

11. In section 15(2) the words " 7, 8, 9 or " shall be omitted.

12. For section 16 there shall be substituted the following section:—

" 16.—(1) A relevant operator shall not be required by virtue of section 10 of this Act to make any payment by way of compensation in respect of an occurrence—

(*a*) when the occurrence involves nuclear matter in the course of carriage and the claim is in respect of damage to the means of transport being used for that carriage, unless the relevant law otherwise provides;

(*b*) to the extent that the amount required for the satisfaction of the claim is not required to be available by the relevant law and has not been made available by means of a relevant contribution.

(**a**) S.I. 1966/1186.

(2) A relevant operator shall not be required by virtue of section 12(1)(*a*) or 13(4)(*b*) of this Act to make any payment by way of compensation in respect of an occurrence if he would not have been required to have made that payment if the occurrence had taken place in his home territory and the claim had been made by virtue of the relevant law.".

13. In section 17 for references to the Minister there shall be substituted references to the Secretary of State.

14. In section 17(1)—

(*a*) for the words " United Kingdom or any part thereof " there shall be substituted the word " Guernsey ";

(*b*) the words " or, as the case may be, of some other part of the United Kingdom " shall be omitted;

(*c*) for the words " the United Kingdom or as the case may be that part thereof " there shall be substituted the word " Guernsey ".

15. In section 17(2) for the words " in a particular part of the United Kingdom " there shall be substituted the words " of a relevant territory ".

16. For section 17(3) there shall be substituted the following subsection:—

" (3) Where by virtue of section 10 of this Act and of any relevant law liability in respect of the same injury or damage is incurred by two or more persons then, for the purposes of any proceedings in Guernsey relating to that injury or damage including proceedings for the enforcement of a judgment registered under the Judgments (Reciprocal Enforcement) (Guernsey) Law 1957 both or all of those persons shall be treated as jointly and severally liable in respect of that injury or damage, provided that, where such liability is incurred as a result of an occurrence involving nuclear matter in the course of carriage in one and the same means of transport, the maximum total amount for which such persons shall be liable, apart from payments in respect of interest or costs, shall not exceed the highest amount required to be available by the relevant law, together with such amounts, if any, as fall to be made available by means of relevant contributions.".

17. In section 17(4) for the words " Part I of the said Act of 1933 " there shall be substituted the words " Part II of the said Law of 1957 " and for the words " section 4 of that Act " there shall be substituted the words "section 6 of that Law ".

18. In section 17(5) for the words " the United Kingdom " in both places where they occur, there shall be substituted the word " Guernsey " and for the word " Acts " there shall be substituted the word " enactments ".

19. In section 17(6) for the words " the United Kingdom " there shall be substituted the word "Guernsey " and the word "foreign " and the words " or in Scotland the execution of diligence " shall be omitted.

20. For section 21(1) there shall be substituted the following subsection:—

" (1) Where, in the case of an occurrence involving nuclear matter in the course of carriage, a claim in respect of damage to the means of transport being used for that carriage is duly established against any person by virtue of section 10 of this Act, then no payment towards its satisfaction shall be made out of funds which are required to be available for the purpose by the relevant law or which have been made available by means of a relevant contribution such as to prevent the satisfaction out of those funds up to an aggregate of £2,100,000 of all claims which have been or may be duly established against the same person in respect of injury or damage caused by that occurrence other than damage to the said means of transport.".

21. In section 21(2) the word " foreign " shall be omitted and for the words " 16(2)(*a*) " there shall be substituted the words " 16(1)(*a*) ".

22. For section 21(3) there shall be substituted the following subsection:—

" (3) Where any nuclear matter is carried by, or on behalf of, or with the agreement of, a relevant operator in such circumstances that he may incur liability by virtue of section 10 of this Act, and he has pursuant to the relevant law provided the carrier with a document, issued by or on behalf of the person by whom there fall to be provided the funds required by the relevant law to be available to satisfy any claim in respect of the carriage in question, and containing the name and address of that operator and particulars of those funds, none of the contents of that document shall be disputed in any court by the person by whom or on whose behalf it was issued.".

23. Section 21(4) shall be omitted.

24. In section 21(5) for the words " Part VI of the Road Traffic Act 1960 " there shall be substituted the words " the Road Traffic (Compulsory Third-Party Insurance) (Guernsey) Law 1936 " and the words " 7, 8, 9 or " shall be omitted.

25. In section 22(1) the words from " (*a*) " to " (*b*) " and the word " 7," shall be omitted.

26. In section 22(2)—

(*a*) the words " licensee or " in both places where they occur shall be omitted;

(*b*) for the word " Minister " there shall be substituted the word "Board ".

27. Section 22(3) shall be omitted.

28. In section 22(4) for any reference to the Minister there shall be substituted a reference to the Board.

29. In section 22(5) for any reference to the Minister, there shall be substituted a reference to the Bailiff.

30. For section 22(6) there shall be substituted the following subsection:—

" (6) In this section " prescribed " means prescribed by order of the Board.".

31. In section 23(1)—

(*a*) for the words " any of sections 7 to 11 ", there shall be substituted the words " section 10 or 11 ";

(*b*) for the words " any of those sections " there shall be substituted the words " either of those sections ";

(*c*) the words after " proved " shall be omitted.

32. In section 23(2) for the words from " the authority hereinafter " to the end of the subsection there shall be substituted the words " the Board ".

33. In section 24(1) for the first reference to the Minister there shall be substituted a reference to the Board and the words from " and may make " to the end of the subsection shall be omitted.

34. In section 24(2), paragraphs (*a*) and (*b*) shall be omitted and in paragraph (*d*) for the words " the licensee or other " there shall be substituted the word " any ".

35. Section 24(3) shall be omitted.

36. In section 24(4), the words " (*a*) or " and " (*b*) or " shall be omitted.

37. In section 24(5), for the word " Minister " there shall be substituted the word " Board ".

38. Section 24(6) and (7) shall be omitted.

39. In section 25, the words after " accordingly " to the end of the section shall be omitted.

40. In section 26(1)—

(*a*) the definitions of " the Act of 1959 ", " atomic energy ", " the Authority ", " contravention ", " costs ", " cover period ", " licensed site ", " licensee ", " Minister ", " nuclear installation ", " nuclear reactor ", "nuclear site licence ", " period of responsibility " and " relevant site " shall be omitted;

(*b*) before the definitition of " excepted matter " there shall be inserted the following definition:—

' "the Board" means the Board of Administration of the States of Guernsey;';

(*c*) in the definition of " excepted matter " there shall be substituted for paragraph (*d*) the following paragraph: —

" (*d*) nuclear matter of such other description, if any, as may be excluded from the operation of the relevant international agreement by the relevant law;";

(*d*) in the definition of " home territory " the word " foreign " shall be omitted;

(*e*) for the definition of " occurrence " there shall be substituted the following definition:—

' " occurrence " in sections 16 and 17(3) of this Act means, in the case of a continuing occurrence, the whole of that occurrence;';

(*f*) for the definition of " prescribed " there shall be substituted the following definition:—

' " prescribed ", except in section 22 of this Act, means prescribed by regulations having effect in Great Britain which are registered in the Royal Court of Guernsey;';

(*g*) in the definition of "relevant carriage " paragraphs (*a*) to (c) shall be omitted and in paragraph (*d*) the word " foreign " shall be omitted;

(*h*) from the words " relevant foreign contribution " the word " foreign " and in the definition the words " other than the United Kingdom " shall be omitted;

(*i*) in the definition of " relevant foreign judgment " for the words " the United Kingdom " there shall be substituted the word " Guernsey ";

(*j*) from the words " relevant foreign law " the word " foreign " and in the definition the words " other than the United Kingdom or any part thereof " and " foreign " shall be omitted;

(*k*) from the words " relevant foreign operator " the word " foreign " and in the definition the words " other than the United Kingdom " shall be omitted.

41. In section 26(3) the word " foreign " in both places where it occurs shall be omitted and for the word " Minister " there shall be substituted the words " Secretary of State ".

42. For section 30(2) there shall be substituted the following provision:—

" (2) This Act, except for section 17(5), shall come into operation forthwith and section 17(5) shall come into operation by order of the Secretary of State.

(3) Any Order made by the Secretary of State under the provisions of the last preceding subsection shall not come into force in Guernsey until registered by the Royal Court.".

43. Schedule 1 shall be omitted and Schedule 2 shall be named " the Schedule ".

44. In the Schedule—

(*a*) in paragraph 1 for the word " Minister " there shall be substituted the word " Bailiff ";

(*b*) paragraph 2 shall be omitted;

(*c*) in paragraph 5 for the word " Minister " there shall be substituted the word " Board " and for the words after " attending " in the second place where they appear to the end of the paragraph there shall be substituted the words " before the Royal Court ";

(*d*) in paragraph 6 for any reference to " the Minister " there shall be substituted a reference to " the Board " and for the word " Parliament " there shall be substituted the words " the States of Guernsey ";

(*e*) in paragraph 7 for the words from " the High Court " where they first occur to " Court of Session " where they secondly occur there shall be substituted the words " the Royal Court and that Court " and for the words from " the High Court " where they last occur to the end of the paragraph there shall be substituted the words " the Royal Court ";

(*f*) paragraph 8 shall be omitted.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order extends to the Bailiwick of Guernsey, with the exceptions, adaptations and modifications specified in the Schedule, those provisions of the Nuclear Installations Act 1965, as amended, which relate to the duty in respect of the carriage of nuclear matter, to the right to compensation for breach of that duty and to the bringing and satisfaction of claims and certain ancillary provisions.

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