

PROJET DE LOI

ENTITLED

The Harbour Dues, Fees and Charges (Alderney) Law, 1984 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.

* Ordres en Conseil Vol. XXVIII, p. 524; as amended by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987 (Ordres en Conseil Vol. XXX, p. 172); the Uniform Scale of Fines (Alderney) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 306); the Harbour Dues, Fees and Charges (Alderney) (Amendment) Law, 2008 (No. VIII of 2009); the Harbour Dues Increase (Alderney) Ordinance, 1987 (Alderney Ordinance No. II of 1987); the Harbour Dues Increase (Amendment) (Alderney) Ordinance, 1987 (Alderney Ordinance No. III of 1987); the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997 (Alderney Ordinance No. II of 1997). See also the Resolution of the States of Alderney of 21st March, 2012 (Billet d'État, March 21st, 2012, Item III).

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THE STATES, in pursuance of their Resolution of the sixth day of July, nineteen hundred and eighty-three, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in the Island of Alderney.

PART I

HARBOUR DUES AND FEES

Harbour dues and passenger fees.

1. Subject to section three [...], on each occasion on which a vessel enters a harbour in Alderney or, being a vessel coming from a place outside Alderney, performs an act of trade within territorial waters other than a harbour in Alderney, there shall be payable [in respect of that entry or act of trade harbour dues and passenger fees at such rates as the States may, from time to time, by Resolution determine.]

NOTES

In section 1, the words omitted in the first pair of square brackets were repealed, and the words in the second pair of square brackets were substituted, by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, respectively section 3(a)(i) and section 3(a)(ii), with effect from 2nd March, 1988.

The following Resolution has been made under this Law:

Harbour Dues and Fees 2012.

Additional harbour dues.

2. Subject to section three [...], in addition to any harbour dues or passenger fees payable under section one, additional harbour dues[, at such rates as the States may, from time to time, by Resolution determine,] shall be payable for each week or part of a week that a vessel remains in a harbour in Alderney after the expiration of a period of fourteen days commencing on the day of its entry.

NOTES

In section 2, the words omitted in the first pair of square brackets were repealed, and the words in the second pair of square brackets were substituted, by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, respectively section 3(b)(i) and section 3(b)(ii), with effect from 2nd March, 1988.

The following Resolution has been made under this Law:

Harbour Dues and Fees 2012.

Exceptions.

3. Sections one and two do not apply to –
- (a) any of Her Majesty's Ships,
 - (b) any vessel belonging to the armed forces of a foreign government,
 - (c) any vessel belonging to or under the control of any Department of Her Majesty's Government or a

navigational authority or body, being a vessel used exclusively for the purposes of such a Department, authority or body other than for carrying passengers for hire or reward,

- (d) any yacht used exclusively for pleasure,
- (e) any vessel carrying passengers for hire or reward exclusively within territorial waters,
- (f) any vessel not exceeding forty gross registered tons,
- (g) any fishing boat carrying no cargo other than fish.

Recovery of dues and fees.

4. Any harbour dues, additional harbour dues or passenger fees payable under this Law shall be recoverable by the States as a civil debt due to the States from the owner of the vessel concerned.

[Resolutions under Part I.

5. Any power conferred by this Law to determine by Resolution rates of harbour dues, additional harbour dues or passenger fees includes a power –

- (a) to determine different rates of harbour dues or additional harbour dues for different vessels or classes of vessels, and different rates of passenger fees for different passengers or categories of passengers[...],
- (b) to exempt any vessel or class of vessel from any or all of the requirements of this Law, or of any Resolution

passed under this Law, as to harbour dues, additional harbour dues or passenger fees,

- (c) to empower the Committee to make with any person a composition in lieu of any or all harbour dues, additional harbour dues or passenger fees for which that person is or may become liable by reason of any entry into a harbour or any act of trade by any vessel or class of vessel,
- (d) to vary or revoke any such Resolution.]

NOTES

Section 5 was substituted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(c), with effect from 2nd March 1988.

In section 5, the words omitted in square brackets in paragraph (a) were repealed by the Harbour Dues, Fees and Charges (Alderney) (Amendment) Law, 2008, section 1, with effect from 14th May, 2009.

PART II

HARBOUR CHARGES

Use of harbour facilities.

6. (1) The States may, from time to time, by [Resolution] prescribe the conditions and charges subject to which persons may use any harbour facility belonging to or in the control of the States.

[(2) A Resolution under this section may –

- (a) make different provision for different cases or circumstances,
- (b) exempt any person or class of persons from all or any charges,
- (c) be varied or revoked by a further Resolution under this section.]

NOTE

In section 6, subsection (2), and the word in square brackets in subsection (1), were substituted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, respectively section 3(e) and section 3(d), with effect from 2nd March, 1988.

Recovery of charges.

7. Any charges payable in pursuance of [a Resolution] made under section six shall be recoverable by the States as a civil debt due to the States from the person by whom or on whose behalf the use of the harbour facility was requested or from an agent of that person.

NOTE

In section 7, the words in square brackets were substituted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(f), with effect from 2nd March, 1988.

Furnishing of information etc.

8. (1) The Harbour Officer may require the owner of any vessel in connection with which a harbour facility is used –

- (a) to furnish to him, within the twenty-four hours next following the date of the use of that facility, such information relating to the vessel or its cargo as the Harbour Officer may require, and
- (b) to produce to him, and permit him to inspect and take copies of, any invoice, manifest, bill of lading or other book or document relating to the vessel or its cargo whose production the Harbour Officer may require.

(2) Any person who, without reasonable cause, refuses or fails to comply with a requirement made under subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 1 on the Alderney uniform scale].

(3) Any person who, in connection with a requirement made under subsection (1), knowingly or recklessly makes any statement or furnishes any information which is false in a material particular shall be guilty of an offence and liable, on conviction, to a fine not exceeding [level 2 on the Alderney uniform scale].

(4) If an offence under this section committed by a body corporate is proved to have been committed with the consent or connivance of a director, manager, secretary or other similar officer of the body corporate, or any person who was purporting to act in such capacity, he as well as the body corporate shall be guilty of that offence and liable to be proceeded against and punished accordingly.

NOTE

In section 8, the words and figures in square brackets were substituted by the Uniform Scale of Fines (Alderney) Law, 1989, section 2(2), with effect from 1st October, 1989.

PART III

INTERPRETATION AND GENERAL

Interpretation.

9. (1) In this Law, [and in any Resolution passed by the States under this Law,] unless the context otherwise requires –

"act of trade" means, in respect of a vessel, the embarkation or disembarkation of passengers or the loading or unloading of cargo,

"additional harbour dues" means dues payable pursuant to the provisions of section two,

"cargo vessel" means a vessel not licensed as a passenger vessel,

"the Committee" means the [Policy and Finance Committee] of the States of Alderney or such other committee as the States may from time to time by resolution appoint for the purposes of this Law,

"harbour dues" means dues payable pursuant to the provisions of [...] section one,

"harbour facilities" means any crane, ramp, grab or other facility in the ownership or control of the States which is situated at or used in connection with any harbour in Alderney,

"Harbour Officer" means the person appointed by the Committee as the Harbour Officer of Braye Harbour and includes any person acting under the authority of the Harbour Officer,

"owner", in relation to a vessel, includes a charterer and an agent,

"passenger" does not include a member of the operating crew of a vessel,

"passenger fees" means fees payable pursuant to the provisions of [...] section one,

"passenger vessel" means a vessel licensed by a Department of Her Majesty's Government or a Committee of the States of Guernsey or a Committee of the States of Alderney to carry more than twelve passengers and includes a foreign passenger vessel which is a Load Line Convention ship within the meaning of that expression in the Merchant Shipping (Safety and Load Line Conventions) Act, 1932 as extended to the Bailiwick of Guernsey by the Merchant Shipping Load Line Convention (Guernsey) Order, 1933^a,

"the States" means the States of Alderney,

"territorial waters" means the territorial waters adjacent to the Island of Alderney,

"vessel" includes a hovercraft and a hydrofoil.

^a Ordres en Conseil Vol. IX, p. 302.

(2) For the purposes of [any Resolution passed by the States under this Law] the gross registered tonnage of a vessel shall be taken to be –

- (i) in the case of a British registered ship, the gross registered tonnage shown in the Certificate of British Tonnage relating to that vessel, and
- (ii) in the case of a vessel other than a British registered ship, such tonnage in relation to that vessel as shall be determined by the Committee.

(3) The Interpretation (Guernsey) Law, 1948^b applies to the interpretation of this Law as it applies to the interpretation of an enactment in force in the Island of Guernsey.

NOTES

In section 9,

the words in the first pair of square brackets in subsection (1) were inserted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(g)(i), with effect from 2nd March, 1988;

the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 1, Schedule 1, Part I, paragraph 7, with effect from 2nd April, 1997;

the words, letters and parentheses omitted in square brackets in the

^b Ordres en Conseil Vol. XIII, p. 355.

definitions of the expressions "harbour dues" and "passenger fees" in subsection (1) were repealed by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, respectively section 3(g)(ii) and section 3(g)(iii), with effect from 2nd March, 1988;

the words in square brackets in subsection (2) were substituted by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(h), with effect from 2nd March, 1988.

The functions of the Transport and Harbour Committee under this Law were transferred to the Policy and Finance Committee by the States Committees (Transfer of Functions) (Alderney) Ordinance, 1997, section 1, Schedule 1, Part I, paragraph 7, with effect from 2nd April, 1997, subject to the savings and transitional provisions in section 3 of the 1997 Ordinance.

The Merchant Shipping Load Line Convention (Guernsey) Order, 1933 is prospectively repealed by the Merchant Shipping (Bailiwick of Guernsey) Law, 2002, section 296, Schedule 10, Part II, paragraph (b).

Repeal.

10. The Harbour Dues (Alderney) Law, 1971^c, as amended, is hereby repealed.

Citation and commencement.

11. (1) This Law may be cited as the Harbour Dues, Fees and Charges (Alderney) Law, 1984.

(2) This Law shall come into force on such day as the States may by Ordinance appoint and different days may be so appointed for different provisions of this Law or for different purposes.

NOTE

^c Ordres en Conseil Vol. XXIII, p. 137.

The Law was brought into force on 1st January, 1985 by the Harbour Dues, Fees and Charges (Alderney) Law, 1984 (Commencement) Ordinance, 1984, section 1.

FIRST SCHEDULE

Section 1

HARBOUR DUES AND PASSENGER FEES

...

NOTE

The First Schedule was repealed by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(i), with effect from 2nd March, 1988.¹

SECOND SCHEDULE
ADDITIONAL HARBOUR DUES

Section 2

...

NOTE

The Second Schedule was repealed by the Harbours, Moorings and Pilotage (Fees, Dues and Miscellaneous Provisions) (Alderney) Law, 1987, section 3(i), with effect from 2nd March, 1988.²

¹ Prior to its repeal, the First Schedule was amended by the following: the Harbour Dues Increase (Alderney) Ordinance, 1987, section 1, with effect from 1st April, 1987; the Harbour Dues Increase (Amendment) (Alderney) Ordinance, 1987, section 1, with effect from 3rd June, 1987.

² Prior to its repeal, the Second Schedule was amended by the following: the Harbour Dues Increase (Alderney) Ordinance, 1987, section 2, with effect from 1st April, 1987; the Harbour Dues Increase (Amendment) (Alderney) Ordinance, 1987, section 2, with effect from 3rd June, 1987.