

# PROJET DE LOI

ENTITLED

## **The Renewable Energy (Alderney) Law, 2007 \***

*[CONSOLIDATED TEXT]*

### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. It has been prepared for the Guernsey Law website and is believed to be accurate and up to date, but it is not authoritative and has no legal effect. 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.*

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\* No. XII of 2008; as amended by the Renewable Energy (Alderney) (Amendment) Law, 2011 (No. XXII of 2012); the Renewable Energy (Alderney) Ordinance, 2008 (Alderney Ordinance No. XIV of 2008).

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## **The Renewable Energy (Alderney) Law, 2007**

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# PROJET DE LOI

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## **The Renewable Energy (Alderney) Law, 2007**

**THE STATES OF ALDERNEY**, in pursuance of their Resolution of the 21<sup>st</sup> day of March, 2007, 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

#### REGULATION OF RENEWABLE ENERGY SYSTEMS

*General prohibition on operation etc. of renewable energy systems and related matters*

#### **General prohibition on operation etc. of renewable energy systems.**

**1.** Except as may be permitted by or under this Law or any other enactment, no person shall –

- (a) operate, deploy or use,
- (b) arrange for the operation, deployment [or use of],
- (c) manage, [...]
- (d) be concerned in the management of, [or
- (e) decommission or arrange for the decommissioning of,]

any renewable energy system on the Island of Alderney or within the territorial waters of Alderney.

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## NOTES

*In section 1, the words in square brackets in paragraph (b) were substituted, the word omitted in square brackets in paragraph (c) was repealed, and paragraph (e) and the word immediately after paragraph (d) in square brackets were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 2(1), respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 20th March, 2013.*

*In accordance with the provisions of the Renewable Energy (Alderney) Ordinance, 2008, with effect from 10th November, 2008, the prohibition in this section shall not apply in respect of the activities specified herein where the conditions set out in section 1 ("Exemptions for certain activities") and section 2 ("Exemption and disapplication for licensed activities") of the 2008 Ordinance are satisfied.*

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### **[Further exemptions and licensing of renewable energy activities.]**

2. (1) The States may from time to time by Ordinance make such provision as they may deem expedient in order to –

- (a) exempt a renewable energy activity from the prohibition under section 1, or
- (b) provide for the licensing of a renewable energy activity,

and for matters ancillary thereto, including the form and manner in which applications in relation to licences are to be made and the information to be provided by the applicant in relation to the same.

(2) Without prejudice to the generality of subsection (1), that subsection includes power to make provision for, or concerning, all or any of the

following matters –

- (a) empowering the Commission, the States or any committee of the States, by regulations, or otherwise –
  - (i) to exempt a renewable energy activity from the prohibition under section 1, subject to such terms and conditions as the Commission, the States or the committee, as the case may be, thinks fit, and
  - (ii) to prescribe conditions for the conduct and control of, and for matters of administration in connection with, a renewable energy activity and any activity related thereto,
- (b) the licensing, by the Commission, the States or any committee of the States, of any person to carry on a renewable energy activity, subject to such conditions and other matters as the Commission, the States or any committee of the States, as the case may be, thinks fit, including, without limitation, conditions relating to –
  - (i) the renewable energy activities authorised by the licence,
  - (ii) precautions to be taken or works to be carried out (whether before, during or after the carrying out of the authorised renewable energy activities) in connection with or in consequence of those activities, or

- (iii) the approval by the Commission, the States or any committee of the States, prior to the carrying on of the renewable energy activity of –
  - (A) a decommissioning programme in relation to the decommissioning of the renewable energy system and any related plant or apparatus, or
  - (B) arrangements to ensure that such decommissioning is carried out in accordance with such an approved programme including financial arrangements to ensure the provision of satisfactory security to cover the cost of such decommissioning,
- (c) the form and manner in which applications in relation to licences are to be made and the information to be provided by the applicant in relation to the same which may include a requirement for –
  - (i) an environmental statement to be submitted setting out information in relation to the environmental effects, and
  - (ii) a decommissioning programme to be submitted setting out information in relation to measures to be taken for the decommissioning,



of the renewable energy system and any related plant or apparatus,

- (d) the matters to which the Commission, the States or any committee of the States is to have regard in making a decision in relation to functions conferred under this section,
- (e) the persons with whom the Commission, the States or any committee of the States must consult on applications in relation to licences, including on any environmental statement and decommissioning programme and other information submitted in relation to the same, before making a decision in relation to an application, which must include –
  - (i) the department of the States of Guernsey or other person from time to time responsible for licensing under Part II of the Food and Environment Protection Act 1985 as extended to the Bailiwick of Guernsey, and
  - (ii) the Harbour Officer,
- (f) the obtaining of information and documents by the Commission, the States or any committee of the States to enable any of the same to perform functions imposed by or under this Law,
- (g) the investigation, by the Commission, the States or any

committee of the States, into the suitability of any applicant for, or holder of, a licence to carry on a renewable energy activity,

- (h) the grant, renewal, variation, suspension or revocation by the Commission, the States or any committee of the States of any licence to carry on a renewable energy activity or the acceptance of the surrender or the effecting of the transfer of such a licence by the Commission, the States or any committee of the States,
- (i) the taking of steps by the Commission, the States or any committee of the States, falling short of suspension or revocation and which, without limitation, may include the imposition of financial penalties, payable to the States, in respect of any contravention of the terms or conditions of a licence to carry on a renewable energy activity:

Provided that the amount of any financial penalty imposed shall not exceed the maximum amount of any financial penalty which could be imposed by a court under section 3(1), and

- (j) enabling any applicant for, or holder of, a licence to carry on a renewable energy activity to appeal from any of the following decisions of the Commission, the States or any committee of the States –
  - (i) to refuse to grant or renew,

- (ii) to suspend or revoke,
- (iii) to impose conditions upon the grant of,
- (iv) to take steps under subsection (2)(i) in respect of the contravention of the terms or conditions of,
- (v) to vary the terms or conditions of,
- (vi) to refuse to vary the terms or conditions of,
- (vii) to refuse to accept the surrender of,
- (viii) to refuse to effect the transfer of, or
- (ix) such other decision as may be specified in relation to,

any such licence and to provide for the grounds of appeal, the period within which such an appeal may be made and otherwise as to the procedure to be adopted for such appeals.]

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## **NOTES**

*Section 2 was substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 3, with effect from 20th March, 2013.<sup>1</sup>*

*The following Ordinances have been made under section 2:*

*Renewable Energy (Alderney) Ordinance, 2008;  
Renewable Energy (Alderney) (Amendment) Ordinance, 2013.*

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*Offences and penalties*

**General offence and penalties.**

3. (1) A person who contravenes section 1, or any Ordinance made under this Law, shall be guilty of an offence and, save where otherwise provided by this Law, or by the Ordinance, shall be liable –

- (a) [ on summary conviction], to a fine not exceeding [level 5] on the Alderney uniform scale, or to imprisonment for a term not exceeding six months, or to both, and
- (b) [ on conviction on indictment], to a fine [or to imprisonment for a term not exceeding 5 years, or to both].

(2) Where an offence under subsection (1), or any Ordinance made under this Law, is committed –

- (a) by a servant or agent of any other person, or
- (b) on any premises [or on any structure] whether temporary or permanent by a person other than the occupier or person having management of it,

the principal, or the occupier or the person having the management of the premises [or structure], as the case may be, shall also be guilty of that offence.

(3) The court by which any person is convicted under this section, or any Ordinance made under this Law, may order anything produced to the court and shown to the satisfaction of the court to relate to the offence, including for the

avoidance of doubt, any renewable energy system or part thereof [or any related plant or apparatus], to be forfeited and either destroyed or dealt with in such other manner as the court may order.

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## NOTES

*In section 3,*

*the words in, first, the first pair of square brackets in paragraph (a) of subsection (1), second, the first pair of square brackets in paragraph (b) of subsection (1), third, the first and second pairs of square brackets in subsection (2) were substituted and, fourth, the words in square brackets in subsection (3) were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 4, respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 20th March, 2013;*

*the words and figures in the second pairs of square brackets in, first, paragraph (a) and, second, paragraph (b) of subsection (1) were substituted by the Renewable Energy (Alderney) Ordinance, 2008, respectively section 32(3)(a) and section 32(3)(b), with effect from 10th November, 2008.*

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## **Offences committed by bodies corporate and partnerships, etc.**

4. (1) Where an offence under section 3(1), or any Ordinance made under this Law, is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

(3) Proceedings for an offence under section 3(1), or any Ordinance made under this Law, alleged to have been committed by a partnership

shall be brought against the partnership in the name of the firm and not in that of the partners, but without prejudice to any liability of the partners under subsection (5).

(4) A fine imposed on a partnership on its conviction in such proceedings shall be paid out of the partnership assets.

(5) Where an offence under section 3(1), or any Ordinance made under this Law, is committed by a partnership and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any partner or any person purporting to act in that capacity, he as well as the partnership is guilty of the offence and may be proceeded against and punished accordingly.

**Defence of due diligence.**

5. (1) In any proceedings for an offence under section 3(1), [25(4)] or any Ordinance made under this Law, it shall, subject to subsection (2), be a defence for the person charged to prove that he took reasonable precautions and exercised all due diligence to avoid the commission of the offence by himself or by a person under his control.

(2) If in any case the defence provided by subsection (1) involves the allegation that the commission of the offence was due to an act or default of another person, or to reliance on information supplied by another person, the person shall not, without the leave of the court, be entitled to rely on that defence unless –

- (a) at least seven clear days before the hearing, and
- (b) where he has previously appeared before the court in connection with the alleged offence, within one month of his first appearance,

he has served on Her Majesty's Procureur a notice in writing giving such information identifying or assisting in the identification of the other person as was then in his possession.

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**NOTE**

*In section 5, the figures and parentheses in square brackets were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 5, with effect from 20th March, 2013.*

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[PART IA  
REGULATION OF RISKS ARISING FROM RENEWABLE ENERGY  
ACTIVITIES

*Extinguishment etc. of public rights of navigation and creation of safety zones*

**Extinguishment etc. of public rights of navigation.**

**5A.** (1) The States may from time to time by Ordinance make such provision as they may deem expedient in relation to the matters set out in subsection (2).

(2) The matters referred to in subsection (1) are the extinguishment or suspension or imposition of restrictions or conditions on the exercise, of rights of navigation by declaration or otherwise by the Commission, the States or any committee of the States in so far as such rights pass through Alderney waters at locations at which, or in the vicinity of which, a renewable energy system, or part thereof, or related plant or apparatus is, or is to be, located for the purposes of securing –

- (a) that such system, plant or apparatus does not result in a danger to navigation, or

(b) the safety of –

(i) such a system, plant or apparatus or other structures, or

(ii) persons and ships,

in the vicinity of such locations.

(3) Without prejudice to the generality of subsection (1), that subsection includes power to provide for –

(a) the making of applications to the Commission, the States or any committee of the States, for –

(i) the extinguishment or suspension, or

(ii) imposition of restrictions or conditions, on the exercise,

of rights of navigation where any part of a renewable energy system or any related plant or apparatus is, or is to be, located within Alderney waters,

(b) the matters to which the Commission, the States or any committee of the States, as the case may be, is to have regard, in making a decision as to whether or not to extinguish, suspend or impose restrictions or conditions on rights of navigation,

(c) the prior publication of any such extinguishment,



suspension, restriction or condition so as to bring it to the attention of persons likely to be affected by it and for the making of representations by such persons in relation to such proposed extinguishment, suspension, restriction or condition, and

- (d) the modification or revocation of any declaration or other means of extinguishing, suspending or imposing restrictions or conditions on the exercise of rights of navigation.]

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**NOTE**

*Part IA, and section 5A thereof, were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 6, with effect from 20th March, 2013.*

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**[Safety zones.]**

**5B.** (1) The States may from time to time by Ordinance make such provision as they may deem expedient in relation to the matters set out in subsection (2).

(2) The matters referred to in subsection (1) are the creation of safety zones, by declaration or otherwise by the Commission, the States or any committee of the States, in areas around or adjacent to a place in Alderney waters where a renewable energy system, or part thereof, or related plant or apparatus is, or is to be, located for the purposes of securing the safety of –

- (a) such a system, plant or apparatus or other structures or objects in the vicinity of such a place, or
- (b) persons and ships in the vicinity of such a place,

and such a safety zone may extend to British fishery limits adjacent to Alderney where the area around or adjacent to the place in Alderney waters where the renewable energy system, or part thereof, or related plant or apparatus in question is, or is to be, located extends to such limits.

(3) Without prejudice to the generality of subsection (1), that subsection includes power to provide for –

- (a) the making of applications to the Commission, the States or any committee of the States, for the creation of a safety zone where any part of a renewable energy system or any related plant or apparatus is, or is to be, located within Alderney waters,
- (b) the matters to which the Commission, the States or any committee of the States, as the case may be, is to have regard, in making a decision as to whether or not to declare a safety zone,
- (c) the variation of the area of a safety zone from time to time,
- (d) the prohibition of the carrying on of certain activities in a safety zone,
- (e) the granting of permission for a ship or a person to enter or remain in a safety zone or for a person to carry on activities which are prohibited in a safety zone subject to such conditions as the Commission, the States or any committee of the States, as the case may

be, thinks fit,

- (f) the prior publication of the notice or other document declaring a safety zone so as to bring it to the attention of persons likely to be affected by it and for the making of representations by such persons in relation to such proposed declaration, and
- (g) the modification or revocation of the notice or other document declaring a safety zone.]

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**NOTE**

*Section 5B was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 6, with effect from 20th March, 2013.*

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*[Extension of health and safety legislation]*

**Health and safety.**

**5C.** (1) The Health and Safety at Work (Alderney) Law, 1997 ("the 1997 Law") and any provisions made under it shall, subject to subsection (3) and to any exceptions that the States may by Ordinance provide, apply to and in relation to persons at work (within the meaning of that Law) within the territorial waters of Alderney where such work is carried on in connection with –

- (a) the operation, deployment, use or decommissioning of a renewable energy system, or part thereof, or related plant or apparatus,
- (b) arranging for the operation, deployment, use or decommissioning of a renewable energy system, or part

thereof, or related plant or apparatus, or

- (c) the exercise of functions conferred under this Law or the 1997 Law in relation to the operation, deployment, use or decommissioning of a renewable energy system, or part thereof, or related plant or apparatus or in relation to arranging for the same.

- (2) Work falling within subsection (1) includes, without limitation

—

- (a) any marine survey work including wave energy or tidal current monitoring bathymetry, water column investigations, surveys of the sea, seabed or subsea surveys, carried out in connection with prospective or actual deployment, operation, use or decommissioning of a renewable energy system, or part thereof, or related plant or apparatus whether or not carried on by or on behalf of an operator or prospective operator of a renewable energy system,
- (b) the construction, reconstruction, assembly, lowering into the sea or on to the seabed, alteration, repair, maintenance, cleaning, operation, deployment, use, lifting up from the sea or the seabed, demolition, dismantling or removal of a renewable energy system, or part thereof, or related plant or apparatus or the preparation for any such activity,
- (c) the transfer of people or goods between a ship or aircraft and a renewable energy system, or part thereof

or related plant or apparatus,

- (d) the loading, unloading, fuelling or provisioning of a ship or an aircraft used in connection with the operation, deployment, use or decommissioning of a renewable energy system, or part thereof or related plant or apparatus,
- (e) diving or other submarine activity, carried on with or without underwater breathing apparatus, carried out in connection with a renewable energy system, or part thereof, or related plant or apparatus, and
- (f) the operation of related plant or apparatus which transmits electricity or any other type of energy from a renewable energy system to any place.

(3) The 1997 Law and any provisions made under it shall not have effect in relation to –

- (a) a qualifying foreign ship whilst it is exercising –
  - (i) the right of innocent passage,
  - (ii) the right of transit passage through straits used for international navigation, or
- (b) persons on such a ship whilst it is exercising any such right.

(4) In this section, unless the context requires otherwise –

**"the 1997 Law"** means the Health and Safety at Work (Alderney) Law, 1997,

**"qualifying foreign ship"** has the meaning given in section 295 of the Merchant Shipping (Bailiwick of Guernsey) Law, 2002, and

**"right of innocent passage", "right of transit passage" and "straits used for international navigation"** shall be construed in accordance with the United Nations Convention on the Law of the Sea 1982 as revised or re-issued from time to time.]

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**NOTE**

*Section 5C, and the heading thereto, were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 6, with effect from 20th March, 2013.*

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**PART II**

**ALDERNEY COMMISSION FOR RENEWABLE ENERGY**

*Establishment of Alderney Commission for Renewable Energy, functions and status*

**Alderney Commission for Renewable Energy.**

6. (1) There is established by, and in accordance with this Law, a body known as the Alderney Commission for Renewable Energy (**"the Commission"**).

(2) The Commission is a body corporate with perpetual succession and a common seal, and is capable of suing and being sued in its corporate name.

(3) The provisions of the Schedule to this Law shall have effect

with respect to the Commission.

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**NOTE**

*The following Ordinance has been made under section 6:*

*Renewable Energy (Alderney) Ordinance, 2008.*

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**Functions of the Commission.**

7. The Commission shall carry out such functions as may be conferred upon it –

- (a) under this Law,
- (b) by any other enactment, or
- (c) by resolution of the States of Alderney.

(2) In the carrying out of any functions conferred upon it as set out in subsection (1), the Commission may take into account any matter which it considers appropriate, but shall –

- (a) have particular regard to –
  - (i) any serious harm to human health or the environment,
  - (ii) any interference with shipping, fishing and any other lawful activities within the Island of Alderney or the territorial waters of Alderney or of any other place,

which is likely to be caused, in all the circumstances,  
by any renewable energy activity, and

- (b) have particular regard to –
  - (i) the desirability of ensuring that the operation, deployment or use of a renewable energy system has as a principal objective the generation of energy from renewable power sources and such other objectives as the Commission, the States or any specified committee of the States may from time to time determine, and
  - (ii) what reasonably appears to the Commission, in all the circumstances, to be in the best interests of the Island of Alderney.

(3) In the carrying out of any function conferred under subsection (1), the Commission must also take into account any other matter as is specified.]

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#### **NOTES**

*Section 7 was substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 7, with effect from 20th March, 2013.<sup>2</sup>*

*The following Ordinances have been made under section 7:*

*Renewable Energy (Alderney) Ordinance, 2008;  
Renewable Energy (Specified Committee) (Alderney) Ordinance,  
2009;  
Renewable Energy (Alderney) (Amendment) Ordinance, 2013.*

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#### **Status of the Commission.**



8. (1) The Commission is not a committee of the States, or a servant or agent of the States, and, except to the extent that this Law or any other enactment otherwise provides –

(a) is not subject to any rule of law relating to committees of the States, and

(b) does not have any right or privilege vested in any committee of the States.

(2) The Commission may consult and co-operate with any committee of the States in relation to any matter relating to [a renewable energy activity or in relation to any activity carried on outside the Island of Alderney or the territorial waters of Alderney which would be such an activity if carried on there].

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**NOTE**

*In section 8, the words in square brackets were substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 8, with effect from 20th March, 2013.*

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*Information, reports, guidance and directions for Commission*

**Provision of information to the States and committees of the States.**

9. Without prejudice to the generality of section 10(2), the Commission shall, when requested in writing by the States, furnish the States or any specified committee of the States, to the best of the Commission's ability, with such information as the States or committee, as the case may be, may require in relation to [a renewable energy activity or in relation to any activity carried on outside the Island of Alderney or the territorial waters of Alderney which would be such an activity if carried on there].

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**NOTES**

*In section 9, the words in square brackets were substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 8, with effect from 20th March, 2013.*

*The following Ordinance has been made under section 9:*

*Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.*

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**Annual reports.**

**10.** (1) The Commission shall, as soon as practicable in each year, make a report to any specified committee of the States on its activities during the preceding year.

(2) The annual report made pursuant to subsection (1) may refer to any aspect of the Commission's functions and in particular –

- (a) may set out or refer to any guidance given to the Commission under section 11(1)(a) during the preceding year, and
- (b) shall set out any directions given to the Commission under section 11(1)(b) during the preceding year.

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**NOTE**

*The following Ordinance has been made under section 10:*

*Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.*

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**Guidance and directions.**

**11.** (1) The States may, after consulting the Commission, give to the Commission –

- (a) written guidance of a general character, and
- (b) written directions of a general character,

concerning the policies to be followed by the Commission in the discharge of any of its functions.

(2) It is the duty of the Commission, in carrying out any of its functions –

- (a) to take into account any guidance given under subsection (1)(a), and
- (b) to act in accordance with any directions given under subsection (1)(b).

(3) The Commission shall not be deemed to have acted unreasonably or beyond its powers in the carrying out of any of its functions by reason only that it has complied with its duty under subsection (2).

*Powers of Commission*

**General powers of the Commission.**

**12.** (1) The Commission may do anything which appears to it to be conducive to the carrying out of its functions or to be incidental to their proper discharge.

(2) Without prejudice to the generality of subsection (1) the

Commission may, in connection with the carrying out of its functions –

- (a) obtain information relating to –
  - (i) renewable energy systems,
  - [(ii) the carrying on of a renewable energy activity,
  - (iia) the carrying on of any activity carried on outside of the Island of Alderney or the territorial waters of Alderney which would be such an activity if carried on there, and]
  - (iii) the licensing, supervision, control and regulation of renewable energy systems carried on outside the Island of Alderney and the territorial waters of Alderney,
- (b) consult or seek the advice of such persons or bodies as it considers appropriate, and
- (c) publish, in such manner as it considers appropriate, such information relating to its functions as it thinks fit.

(3) This section relates only to the capacity of the Commission as a body corporate and does not authorise the disregard by the Commission of any enactment or rule of law.

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**NOTE**

*In section 12, subparagraph (ii) of subsection (2)(a) was substituted, and*

*subparagraph (iia) thereof was inserted, by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 9, with effect from 20th March, 2013.*

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**Contractual powers.**

**13.** (1) The Commission may enter into a contract, or make an arrangement with, any person for the provision of any service or any facility to facilitate the carrying out of the Commission's functions and may expend money generally for the proper purposes of the Commission.

(2) The power conferred by subsection (1) includes the power –

- (a) to open, operate and close banking accounts in the name of the Commission,
- (b) to enter into, and pay any premium in respect of, contracts of insurance insuring the Commission, any member of the Commission, or any officer or servant of the Commission against –
  - (i) any risk to the Commission's property, or
  - (ii) any risk arising in connection with the carrying out of the Commission's functions, including, without prejudice to the generality of the foregoing, the risk of a claim against the Commission in respect of any description of civil liability.

**Powers as to property.**

**14.** (1) The Commission has all such powers in relation to the

acquisition, use and disposal of property (whether realty or personalty) as are conducive to the carrying out of its functions.

(2) Without prejudice to the generality of subsection (1), the Commission may –

- (a) acquire any land (which shall include the seabed) or building, or an interest in any land (including the seabed) or building, by purchase, lease, sublease, easement or otherwise,
- (b) deal generally with, and dispose of, by sale, lease, sublease, easement or otherwise, any land or building or an interest in any land or building,
- (c) acquire any furniture, equipment or other personalty, by purchase, hire, bailment or otherwise, and
- (d) deal generally with, and dispose of, by sale, hire, bailment or otherwise, any furniture, equipment or other personalty.

**Appointment, remuneration etc. of staff.**

**15.** (1) The Commission may appoint such officers, employees and consultants as it considers necessary for carrying out its functions.

(2) An appointment under subsection (1) may be made on such terms as to remuneration, expenses, pensions and other conditions of service as the Commission thinks fit.

(3) The Commission may establish and maintain such schemes, or

make such other arrangements, as it thinks fit for the payment of pensions and other benefits in respect of its officers employees and consultants.

*Funding and financial matters*

**The Commission's funds.**

16. The funds and resources of the Commission are –
- (a) any grant paid to the Commission under section 18,
  - (b) any money borrowed by the Commission in accordance with section 19, [...]
  - (ba) any fees and charges payable to the Commission under this Law, and]
  - (c) any other money or property, and any income and profits derived from such money or property, as is lawfully vested in the Commission [...].

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**NOTE**

*In section 16, first, paragraph (ba) was inserted and the word omitted immediately after paragraph (b) was repealed and, second, the words omitted in square brackets in paragraph (c) were repealed by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 10, respectively paragraph (a) and paragraph (b), with effect from 20th March, 2013.*

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**Fees and charges.**

17. ...

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**NOTE**

*Section 7 was repealed by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 11, with effect from 20th March, 2013.*

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**Grants to the Commission.**

**18.** (1) In respect of each year the States, or any specified committee of the States, may make grants of sums of money to the Commission towards the expenses of the Commission in carrying out its functions.

(2) The amount of any grant under subsection (1) shall be determined by the States following consultation carried out on its behalf by any specified committee of the States; and in determining the amount the States shall have regard to –

- (a) the results of that consultation, and
- (b) the extent, if any, to which the Commission's estimated expenditure in any year is likely to exceed its estimated funds and resources from other sources in that year.

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**NOTE**

*The following Ordinance has been made under section 18:*

*Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.*

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**Borrowing by the Commission.**

**19.** (1) For the purpose of assisting the Commission to carry out its functions, the States may make advances of sums of money by way of loan to the Commission.



(2) The aggregate amount outstanding by way of principal in respect of sums advanced to the Commission under this section shall not at any time exceed such sum as the States may from time to time by Resolution determine.

(3) No advance shall be made under this section except on such terms (as to repayment, payment of interest or otherwise) as the States may from time to time by resolution determine.

(4) The Commission shall not borrow money except in accordance with this section.

**Investment of surplus funds.**

**20.** The Commission may invest any of its funds which are not immediately required in any investment approved in writing for the purpose by the States, or any specified committee of the States.

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**NOTE**

*The following Ordinance has been made under section 20:*

*Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.*

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**Accounts and audit.**

**21.** (1) The Commission shall –

- (a) keep proper accounts and proper records in relation to those accounts, and
- (b) prepare in respect of each year a statement of accounts giving a true and fair view of the state of affairs of the Commission.

- (2) The accounts of the Commission shall be –
  - (a) audited by auditors appointed by the States, and
  - (b) laid before the States, in the same manner as the accounts of a committee of the States.

*Miscellaneous provisions relating to Commission*

**[Delegation.]**

**22.** (1) The Commission may, by an instrument in writing under its common seal, delegate to any of its members, officers or employees named or described in that instrument, either generally or otherwise as provided by that instrument, any of its functions except –

- (a) this power of delegation,
- (b) its duty to make an annual report under section 10, or
- (c) so much of any of its functions as require the Commission to consider representations concerning a decision which it proposes to take.

[ (1A) The Commission may, by an instrument in writing under its common seal, delegate to any public body, either generally or otherwise as provided by that instrument, any of its functions except –

- (a) this power of delegation, or
- (b) its duty to make an annual report under section 10.]

(2) A function delegated under this section may be carried out by the delegate in accordance with the instrument of delegation and, when so carried out, shall, for the purposes of this Law, be deemed to have been carried out by the Commission.

(3) A delegation under this section is revocable by the Commission at will and does not prevent the carrying out of a function by the Commission.

[ (4) In this section "**public body**" means –

- (a) any committee of the States or any department of the States of Guernsey,
- (b) the department of the States of Guernsey or other person from time to time responsible for licensing under Part II of the Food and Environment Protection Act 1985 as extended to the Bailiwick of Guernsey, or
- (c) any other person prescribed.]

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**NOTE**

*In section 22, first, the marginal note thereto was substituted, second, subsection (1A) was inserted and, third, subsection (4) was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 12, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 20th March, 2013.*

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**Execution of documents.**

**23.** Any deed, instrument, contract or other document shall be deemed to

have been duly executed by or on behalf of the Commission, and shall be effective in law to bind the Commission, if it is –

- (a) sealed with the common seal of the Commission, and
- (b) signed by a member or officer of the Commission [or a public body] to whom the Commission has delegated, under section 22, authority to affix the Commission's common seal.

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**NOTE**

*In section 23, the words in square brackets in paragraph (b) were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 13, with effect from 20th March, 2013.*

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**[Presumption of authenticity of documents.]**

**24.** Any document purporting to be issued by the Commission and to be signed by –

- (a) a member or officer of the Commission, or
- (b) a public body to whom the Commission has delegated authority to issue such a document under section 22,

on behalf of the Commission shall be deemed to be such a document unless the contrary is shown.]

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**NOTE**

*Section 24 was substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 14, with effect from 20th March, 2013.*

**Confidentiality.**

**25.** (1) Any information from which an individual or body can be identified which is acquired by the Commission in the course of carrying out its functions shall be regarded as confidential by the Commission and by its members, officers and employees.

(2) No such information as is referred to in sub-section (1) shall be disclosed, without the consent of every individual who, and every body which, can be identified from that information, except to the extent that its disclosure is expressly authorised or required by or under this Law or appears to the Commission to be necessary –

- (a) to enable the Commission to carry out any of its functions,
- (b) in the interests of the prevention, detection or investigation of crime within or outside Alderney [or the territorial waters of Alderney],
- (c) in connection with the discharge of any international obligation to which Alderney [(including in respect of the territorial waters of Alderney)] is subject,
- (d) to assist, in the interests of the public, any authority which appears to the Commission to carry out in a place outside Alderney [or the territorial waters of Alderney] functions corresponding to those of the Commission,

- (e) to assist any prosecuting authority with the prosecution of criminal offences within or outside Alderney [or the territorial waters of Alderney], or
- (f) to comply with the directions of the Royal Court or the Court of Alderney.

(3) Without prejudice to subsections (1) and (2), any information communicated to the Commission by a committee of the States shall be regarded as confidential, if that committee of the States so requests, by the Commission and by its members, officers and servants; and no such information shall be disclosed to any other person, except in compliance with the directions of the Royal Court or the Court of Alderney.

(4) A person who discloses information, or who causes or permits the disclosure of information, in contravention of this section is guilty of an offence and liable –

- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both, or
- (b) on summary conviction, to a fine not exceeding level 3 on the uniform scale.

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**NOTE**

*In section 25, the words in square brackets in, first, paragraph (b), paragraph (d) and paragraph (e) of subsection (2) and, second, paragraph (c) thereof were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 15, respectively paragraph (a) and paragraph (b), with effect from 20th March, 2013.*

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**Communications by auditors and others to Commission.**

26. (1) No duty, to which an auditor, employee or agent of any person licensed, or otherwise authorised, to [carry on a renewable energy activity] under this Law, is subject, is contravened by reason of his communication in good faith to the Commission, whether or not in response to a request by it, of any information or opinion on a matter to which this section applies and which is relevant to any function of the Commission under this Law.

(2) This section applies to any matter of which an auditor, employee or agent becomes aware in his capacity as auditor, employee or agent and which relates to the business or affairs of –

- (a) a person licensed, or otherwise authorised, to [carry on a renewable energy activity] under this Law, or
- (b) any associated body of such person.

(3) This section applies in relation to the auditor, employee or agent of a person formerly licensed, or otherwise authorised, to [carry on a renewable energy activity] under this Law, as it applies to a person currently so licensed or otherwise authorised.

(4) In this section "**associated body**" means a person whom the Commission reasonably believes to be associated with the operations of a person licensed, or otherwise authorised, to [carry on a renewable energy activity] under this Law.

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**NOTE**

*In section 26, the words in square brackets were substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 16, with effect from 20th March, 2013.*

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**Liability of members, officers and servants.**

**27.** ...

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**NOTE**

*Section 27 was repealed by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 17, with effect from 20th March, 2013.*

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[PART IIA  
ENTRY, ENFORCEMENT, LIABILITY, FEES AND CHARGES

*Powers of entry and enforcement powers*

**Powers of entry and enforcement powers.**

**27A.** (1) The States may from time to time by Ordinance make such provision as they may deem expedient in relation to the matters set out in subsection (2).

(2) The matters referred to in subsection (1) are –

(a) powers of entry on to premises for the purpose –

(i) set out in paragraph (b),

(ii) of considering any application for a licence or other approval under this Law,

(iii) of deciding whether and in what manner any functions conferred under this Law ought to be exercised, or

(iv) of carrying out any investigation, examination, test or remedial action under this Law, or

(b) securing the enforcement of any provisions of this Law and of any provisions made, or documents issued, under this Law including, without limitation, any licences or notices,

except that provision may only be made for entry to any place used as a dwelling, without the consent of a person appearing to be entitled to permit entry, where the enforcement officer is acting in accordance with a warrant to do so obtained by him upon information laid on oath before the Chairman of the Court of Alderney or, if he is unavailable, a Jurat of that Court.

(3) Without prejudice to the generality of subsection (1) that subsection includes power to –

- (a) provide for the appointment of persons in writing by the Commission, the States or any committee of the States for the purposes of carrying out functions related to the matters set out in subsection (2) including, without limitation, monitoring the enforcement of, or enforcing, any provisions of this Law or any provisions made under this Law including any licences or notices ("**enforcement officers**"),
- (b) provide for the enforcement powers that may be exercised by an enforcement officer, on production of his authority to exercise such power and on the provision of any information as may be specified, including powers to –
  - (i) board and inspect ships, used in connection with a renewable energy activity where any part of the renewable energy system or any related plant or apparatus is within Alderney waters, and board and inspect renewable energy systems, or part thereof, or related plant or apparatus within Alderney waters,

- (ii) do anything to facilitate the boarding of such ships, renewable energy systems, or part thereof, or related plant or apparatus, or
  - (iii) enter and inspect any premises used in connection with a renewable energy activity,
- (c) provide for an enforcement officer whilst carrying out an inspection under paragraph (b) to –
  - (i) search any such premises for any item and examine, or carry out any measurement or test, on anything in, on, attached to, forming part of, or controlled from such premises,
  - (ii) require production of documents from any person at such premises where such document is in a person's possession or control, or
  - (iii) seize and detain any item found at such premises for so long as is necessary in all the circumstances and to take copies of or extracts from any document or record found at such premises, except that provision may not be made for the retention of any item if a photograph or a copy would be sufficient for the purpose, or

- (d) provide for an enforcement officer to direct that a ship or, where practicable, any renewable energy system, or part thereof, or related plant or apparatus be taken into the nearest convenient port but only where an enforcement officer considers that it would not be reasonably practicable to exercise a power in relation to that ship, renewable energy system, or part thereof, or related plant or apparatus without so detaining it in port,

in each case on production of their authority to exercise such power and on the provision of such other information as may be specified.]

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**NOTE**

*Part IIA, and section 27A thereof, were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Power to issue compliance or remediation notice.]**

**27B.** (1) Without prejudice to the generality of section 27A(1), that section includes power to provide for the issuing of a notice specified in subsection (3) ("**a compliance notice**") by the Commission, the States or any committee of the States to a person holding a licence issued under section 2 in the circumstances set out in subsection (2).

- (2) The circumstances referred to in subsection (1) are that –
  - (a) the licence is for the carrying on of a renewable energy activity, and
  - (b) it appears to the Commission, the States or the

Committee, as the case may be, that there has been a contravention of the terms or conditions of that licence.

(3) A compliance notice is a notice requiring the person holding a licence under section 2 to take such steps as may be specified in it to ensure that the term or condition of the licence is complied with.

(4) Without prejudice to the generality of section 27A(1), that section includes power to provide for the issuing of a notice specified in subsection (6) ("**a remediation notice**") by the Commission, the States or any committee of the States to –

- (a) a person holding a licence issued under section 2 for the carrying on of a renewable energy activity where –
  - (i) it appears to the Commission, the States or any committee of the States, as the case may be, that there has been a contravention of the terms or conditions of that licence, and
  - (ii) the renewable energy activity in respect of which the contravention has taken place has caused, or is likely to cause, the effects set out in subsection (5),
- (b) a person who has contravened the prohibition in section 1, by virtue of carrying on a renewable energy activity without a licence issued under section 2, where the renewable energy activity in respect of which the prohibition has been contravened has caused, or is likely to cause, the effects set out in subsection (5).

(5) The effects referred to in subsection (4) are any of the following –

- (a) harm to the environment,
- (b) harm to human health, or
- (c) interference with shipping, fishing or other lawful activities within Alderney waters.

(6) A remediation notice is a notice requiring the person on whom it is served to do either or both of the following –

- (a) to take such remedial steps as may be specified in it for the purpose of –
  - (i) protecting the environment,
  - (ii) protecting human health,
  - (iii) preventing interference with shipping, fishing or other lawful activities within Alderney waters,
  - (iv) preventing or minimising, or remedying or mitigating the effects of, any harm or interference falling within subsection (5),
  - (v) restoring (whether in whole or in part) the condition of any place affected by any such harm or interference to the condition, or a

condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred, or

- (vi) where the holder of a licence under section 2 has failed to carry out decommissioning in accordance with a decommissioning programme approved by the Commission, the States or any committee of the States, as the case may be, in relation to the renewable energy system or related plant or apparatus in question, carrying out decommissioning in accordance with that decommissioning programme, or

- (b) to pay a sum to the Commission, the States or any committee of the States, as the case may be, to cover any reasonable expenses incurred, in the taking of remedial steps (whether or not under section 27E), by the Commission, the States or the committee, as the case may be.

(7) A sum required to be paid in a remediation notice by virtue of subsection (6)(b) is recoverable as a civil debt.]

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**NOTE**

*Section 27B was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Power to issue stop notice.]**

**27C.** (1) Without prejudice to the generality of section 27A(1), that

section includes power to provide for the issuing of a notice specified in subsection (3) ("**a stop notice**") by the Commission, the States or any committee of the States to a person carrying on a renewable energy activity, which is not exempt from the prohibition in section 1, where the renewable energy activity in respect of which the contravention has taken place –

- (a) is causing or will cause,
- (b) is creating or will create an imminent risk of,

the effects set out in subsection (2).

(2) The effects referred to in subsection (1) are any of the following –

- (a) serious harm to the environment,
- (b) serious harm to human health, or
- (c) serious interference with shipping, fishing or other lawful activities within Alderney waters.

(3) A stop notice is a notice prohibiting a person from carrying on an activity specified in the notice.]

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**NOTE**

*Section 27C was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Power to make further provision in relation to notices under this Part and for**



**appeals against such notices.**

**27D.** (1) Without prejudice to the generality of section 27A(1), that subsection includes power to provide for –

- (a) the matters which must be specified in a compliance notice, a remediation notice and a stop notice, and
- (b) the duration and effect of such notices and such other matters in connection with such notices as the States consider appropriate,

except that provision may not be made, in relation to a renewable energy activity carried on in accordance with a licence issued under section 2, for a stop notice to have effect for more than 7 days, beginning with the day on which the prohibition takes effect, save that provision may be made for a renewal of such a notice for an aggregate period not exceeding 35 days.

(2) The States may by Ordinance make such provision as they consider appropriate for –

- (a) appeals to be brought against a compliance notice, a remediation notice or a stop notice including, without limitation, provision as to –
  - (i) the persons who may bring such appeals,
  - (ii) the grounds of appeal, and
  - (iii) the period and manner in which such an appeal must be made and otherwise as to the procedure to be adopted for such appeals, and

- (b) details of notices issued or action taken under this Part, by the Commission, the States or any committee of the States, to be kept on a public register.]

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**NOTE**

*Section 27D was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Power to take remedial steps.]**

**27E.** (1) The States may from time to time by Ordinance make such provision as they may deem expedient for the taking of remedial steps by the Commission, the States or any committee of the States in the circumstances set out in subsection (2).

(2) The circumstances referred to in subsection (1) are that a renewable energy activity, which is not exempt from the prohibition in section 1, is being or has been carried out otherwise than under and in accordance with the terms and conditions of a licence issued under section 2.

(3) In this section "**remedial steps**" means any works that appear to it to be necessary or expedient for any one or more of the following purposes –

- (a) protecting the environment,
- (b) protecting human health,
- (c) preventing interference with shipping, fishing or other lawful activities within Alderney waters,

- (d) preventing or minimising, or remedying or mitigating the effects of, any harm or interference falling within subsection (4),
- (e) restoring (whether in whole or in part) the condition of any place affected by any such harm or interference to the condition, or a condition reasonably similar to the condition, in which the place would have been had the harm or interference not occurred, or
- (f) where the holder of a licence under section 2 has failed to carry out decommissioning in accordance with a decommissioning programme approved by the Commission, the States or any committee of the States, as the case may be, in relation to the renewable energy system or related plant or apparatus in question, carrying out decommissioning in accordance with that decommissioning programme.

(4) The harm or interference mentioned in subsection (3)(d) and (e) is any of the following which has been, is being, or is likely to be, caused by the carrying on of the renewable energy activity –

- (a) harm to the environment,
- (b) harm to human health, or
- (c) interference with shipping, fishing or other lawful activities within Alderney waters.

(5) For the avoidance of doubt, where decommissioning of a

renewable energy system or related plant or apparatus is carried out under subsection (1) by or behalf of the Commission, the States or any committee of the States, that decommissioning is permitted under this Law for the purposes of section 1.]

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**NOTE**

*Section 27E was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Powers under this Part without prejudice to those under section 2.]**

**27F.** The powers in this Part are without prejudice to the powers under section 2 in so far as those section 2 powers relate to the enforcement of any provisions of, or made under, this Law, or of any licence, notice or other document issued under this Law.]

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**NOTE**

*Section 27F was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Exclusion of liability.]**

**27G.** (1) Subject to subsection (3), no person within subsection (2) is to be –

- (a) liable in damages, or
- (b) where an individual, personally liable in any civil proceedings,

in respect of anything done or omitted to be done after the commencement of this Law in the discharge or purported discharge of his functions, or functions delegated

to him, under this Law, unless the thing was done or omitted to be done in bad faith.

- (2) The persons within this subsection are –
  - (a) the Commission or any member, officer or servant of the Commission,
  - (b) any public body to whom functions are delegated under section 22 or any member, officer or servant of such a public body, or
  - (c) any enforcement officer appointed under section 27A.

(3) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000.]

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**NOTE**

*Section 27G was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**[Fees and charges.]**

**27H.** (1) There shall be payable to the Commission, the States or any committee of the States, such fees or charges of such amounts, by such persons and in such manner as may be specified or prescribed by regulations of the Commission in connection with –

- (a) the carrying out of any functions under the Law,
- (b) the provision of any services by the Commission in

connection with any of its functions under the Law, and

- (c) the recovery of any reasonable costs associated with the administration and enforcement of any Ordinance or subordinate legislation made under this Law.

(2) Without prejudice to the generality of subsection (1), an Ordinance or regulations under that subsection may provide for the charging of –

- (a) fees in connection with applications made under this Law, and
- (b) an annual licence fee, payable by the holder of a licence issued under section 2, to cover any reasonable costs incurred by the Commission in connection with issuing and enforcement of such licences.]

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**NOTE**

*Section 27H was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 18, with effect from 20th March, 2013.*

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**PART III**

**GENERAL**

*Interpretation, General Provisions as to Ordinances, etc.,*

**Interpretation.**

- 28.** (1) In this Law, unless the context requires otherwise –

**"Alderney uniform scale"** has the same meaning as in the Uniform

Scale of Fines (Alderney) Law, 1989<sup>a</sup>,

[ "**Alderney waters**" means the territorial waters of Alderney and the national waters of Alderney,]

[ "**British fishery limits adjacent to Alderney**" means that part of British fishery limits set by or under section 1 of the Fishery Limits Act 1976 not exceeding 12 miles from the baselines from which the breadth of the territorial sea adjacent to Alderney is measured, but not extending beyond the median line,]

"**Commission**" means the Alderney Commission for Renewable Energy,

"**committee of the States**" means a committee of the States appointed under section 49(1) of the Government of Alderney Law, 2004<sup>b</sup>,

[ "**compliance notice**": see section 27(B)(1) and (B)(3),]

"**contravention**", in relation to any requirement, includes a failure to comply with that requirement, and cognate expressions shall be construed accordingly,

[ "**craft**" means anything made for the conveyance by water of human beings or of property including a jet ski, wet bike or water scooter or other similar craft, however described,]

[ "**department of the States of Guernsey**" includes any council or

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<sup>a</sup> Ordres en Conseil Vol. XXX1, p. 306.

<sup>b</sup> Order in Council No. III of 2005.

committee (however called) thereof,]

[ "**document**" includes information stored or recorded in any form (including, without limitation, in electronic form); and, in relation to information stored or recorded otherwise than in legible form, references to its production, however expressed, include (without limitation) references to the production of the information in a form –

- (a) in which it can be taken away, and
- (b) in which it is visible and legible or from which it can readily be produced in a visible and legible form,]

[ "**electronic form**", in relation to the storage or recording of documents, includes storage or recording by means of any form of information storage technology,]

[ "**enactment**" means any Law, Ordinance or subordinate legislation,]

[ "**enforcement officers**": see section 27(A)(3),]

"**function**" includes a duty and a power and the carrying out of functions includes the performance of duties and the exercise of powers,

[ "**Harbour Officer**" has the meaning given under section 62(1) of the Government of Alderney Law, 2004,]

[ "**Island of Alderney**" and "**Alderney**" includes all other islands, islets and rocks around the coast of Alderney, whether or not attached at low water, and, for the avoidance of doubt, the national waters of Alderney,]



[ "**median line**" means a line every point of which is equidistant from the nearest points of the baselines from which the breadth of the territorial sea adjacent to Alderney is measured and the corresponding baselines adjacent to Guernsey and Sark,]

[ "**national waters of Alderney**" means waters landward of the baselines for measuring the breadth of the territorial waters of Alderney,]

[ "**notice**" means notice in writing,]

[ "**premises**" includes any place and, in particular, includes –

- (a) a building and any other land,
- (b) a ship or an aircraft,
- (c) a renewable energy system or any part thereof,
- (d) any related plant or apparatus, and
- (e) a vehicle,]

[ "**related infrastructure**" means any plant, structures, apparatus, lines or cables necessary to operate, deploy, use or manage a renewable energy system for the generation or supply of energy,]

[ "**related plant or apparatus**" includes any of the following which is not itself a renewable energy system –

- (a) any mechanical system, plant or apparatus which is in the course of construction or assembly and which on

completion of that construction or assembly will be, or will form part of, a renewable energy system,

- (b) any mechanical system, plant or apparatus which formed part of a renewable energy system including any such system, plant or apparatus which is in the course of being decommissioned,
- (c) any mechanical system, plant or apparatus which –
  - (i) will form part of a renewable energy system, and
  - (ii) is in transit to a place where it is to be located for the purpose of the generation or supply of energy,
- (d) any related infrastructure, and
- (e) any plant, structures, apparatus, lines or cables which will be or were necessary to operate, deploy, use or manage any system, plant or apparatus falling within paragraphs (a) to (c),]

[ **"remediation notice"**: see section 27(B)(4) and (6),]

[ **"renewable energy activity"** means an activity prohibited under section 1,]

[ **"renewable energy system"** means any mechanical system, or any plant or apparatus, which is designed and constructed to generate or supply

electricity or any other type of energy from any form of renewable power source,]

**"renewable power source"** includes tidal power, wave power, wind power, solar power and any other form of prescribed power,

**"Royal Court"** means the Royal Court of Guernsey sitting as the Ordinary Court,

**"prescribed"** means prescribed by regulations made by any specified committee of the States,

[ **"ship"** includes –

- (a) every description of vessel used in navigation,
- (b) a hovercraft, and
- (c) any other craft capable of travelling on, in or under water, whether or not self-propelled,

but does not include a reference to anything that permanently rests on, or is permanently attached to, the sea bed,]

**"specified"** means specified by, or under, an Ordinance,

**"the States"** means the States of Alderney, and

[ **"stop notice"**: see section 27C(1) and (3),]

[ **"subordinate legislation"** means any regulation, rule, order, rule of

court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,]

**"territorial waters of Alderney"** means the territorial sea adjacent to Alderney, the breadth thereof being measured from the baselines established by the Territorial Waters Order in Council 1964<sup>c</sup>.

(2) Unless the context requires otherwise, any reference in this Law to an enactment is a reference thereto as from time to time amended, replaced or re-enacted (in either case with or without modification), extended or applied.

(3) The Interpretation (Guernsey) Law, 1948<sup>d</sup> shall apply to the interpretation of this Law as it applies to the interpretation of an enactment in force in Guernsey.

(4) In this Law any words importing the neuter gender shall include the masculine and the feminine, and any words importing the masculine gender shall include the feminine and the neuter.

[ (5) In this Law, unless the context requires otherwise, references to **"arranging for the operation, deployment or use of any renewable energy system"** or any related expressions, include, for the avoidance of doubt, the carrying out of any marine survey work including –

(a) wave energy or tidal current monitoring, bathymetry, water column investigations, or

(b) surveys of the sea, seabed or subsea surveys,

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<sup>c</sup> Order in Council of the 25<sup>th</sup> September 1964.

<sup>d</sup> Ordres en Conseil Vol. XIII, p. 355.

carried out in connection with any prospective or potential operation, deployment or use of a renewable energy system or part thereof.]

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## NOTES

*In section 28,*

*the definitions of the expressions "Alderney waters", "British fishery limits adjacent to Alderney", "compliance notice", "craft", "department of the States of Guernsey", "document", "electronic form", "enactment", "enforcement officers", "Harbour Officer", "median line", "national waters of Alderney", "notice", "related infrastructure", "related plant or apparatus", "remediation notice", "renewable energy activity", "ship", "stop notice" and "subordinate legislation" in subsection (1) were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 19(a), with effect from 20th March, 2013;*

*the definitions of the expressions, first, "Island of Alderney" and "Alderney", second, "premises" and, third, "renewable energy system" were substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 19(b), respectively subparagraph (i), subparagraph (ii) and subparagraph (iii), with effect from 20th March, 2013;*

*subsection (5) (which was originally inserted by the Renewable Energy (Alderney) Ordinance, 2008, section 32(5), with effect from 10th November, 2008) was substituted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 19(c), with effect from 20th March, 2013.*

*The following Ordinance has been made under section 28:*

*Renewable Energy (Specified Committee) (Alderney) Ordinance, 2009.*

*The Interpretation (Guernsey) Law, 1948 is prospectively repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a).*

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## **Amendment by Ordinance.**

**29.** The States may by Ordinance amend this Law.

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## NOTE

*The following Ordinance has been made under section 29:*

*Renewable Energy (Alderney) Ordinance, 2008.*

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**General provisions as to Ordinances and regulations.**

- 30.** (1) An Ordinance or regulations under this Law may –
- (a) be amended or repealed by a subsequent Ordinance or regulations thereunder, and
  - (b) contain such consequential, incidental, supplementary and transitional provision as may appear to the States, or any committee of the States, as the case may be, to be necessary or expedient.
- (2) Any power conferred under this Law to make an Ordinance or regulations may be exercised –
- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,
  - (b) so as to make, as respects the cases in relation to which it is exercised –
    - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
    - (ii) the same provision for all cases, or different

provision for different cases or classes of cases,  
or different provision for the same case or class  
of case for different purposes,

- (iii) any such provision either unconditionally or  
subject to any prescribed conditions.

[ (3) Without prejudice to the generality of the foregoing provisions  
of this Law, an Ordinance under this Law may –

- (a) subject to subsection (4), make provision in relation to  
the creation, trial (summarily or on indictment) and  
punishment of offences and for related defences,
- (b) empower the Commission, the States or any committee  
of the States to make or issue codes or guidance,  
whether as to matters in respect of which an Ordinance  
can be made under this Law or otherwise,
- (c) make provision for the purpose of dealing with matters  
arising out of or related to renewable energy activities  
or any international instrument relating to such  
activities or activities that would be such activities if  
carried on in the Island of Alderney or the territorial  
waters of Alderney,
- (d) repeal, replace, amend, extend, adapt, modify or  
disapply any rule of custom or law,
- (e) without prejudice to the generality of the foregoing,  
make any such provision of any such extent as might be

made by Projet de Loi, but may not provide that a person is to be guilty of an offence as a result of any retrospective effect of the Ordinance,

(f) confer power –

(i) on any committee of the States, or

(ii) on the Commission,

to make regulations in relation to any matter as to which an Ordinance may make provision, and

(g) make provision generally for carrying this Law into effect in whatever manner the States thinks fit.

(4) An Ordinance under this Law may not –

(a) provide for offences to be triable only on indictment, or

(b) provide for penalties for offences which exceed the maximum penalties that may be imposed by a court under section 3(1).

(5) Any regulations made under this Law must be laid as soon as practicable before a meeting of the States; and if at that or their next meeting, the States resolve to annul the regulations, they shall cease to have effect but without prejudice to anything done under them or to the making of new regulations.]

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**NOTES**



*In section 30, subsection (3), subsection (4) and subsection (5) were inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 20, with effect from 20th March, 2013.*

*The following Ordinances have been made under section 30:*

*Renewable Energy (Alderney) Ordinance, 2008;  
Renewable Energy (Alderney) (Amendment) Ordinance, 2013.*

*The following Regulations have been made under section 30:*

*Renewable Energy (Alderney) (Exemptions) Regulations, 2018.*

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**[Extent.]**

**30A.** (1) This Law extends, subject to subsection (2), to the Island of Alderney and the territorial waters of Alderney.

(2) Sections 3 to 5, 5B, Part IIA and section 30 of this Law extend also to British fishery limits adjacent to Alderney insofar as those sections and that Part make provision for –

- (a) a safety zone to extend to British fishery limits adjacent to Alderney,
- (b) enforcement of provisions relating to such a safety zone, and
- (c) the creation, trial and punishment of offences which may be committed in relation to such a safety zone and related defences.]

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**NOTE**

*Section 30A was inserted by the Renewable Energy (Alderney) (Amendment) Law, 2011, section 21, with effect from 20th March, 2013.*

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**Citation.**

**31.** This Law may be cited as the Renewable Energy (Alderney) Law, 2007.

**Commencement.**

**32.** This Law shall come into force on the day appointed by Ordinance of the States; and different days may be appointed for different provisions or different purposes.

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**NOTE**

*The Law was brought into force on 10th November, 2008 by the Renewable Energy (Alderney) Law, 2007 (Commencement) Ordinance, 2008, section 1.*

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SCHEDULE

Section 6

**Provisions having effect with respect to the Alderney Commission for Renewable Energy**

1. The Commission shall consist of a Chairman [and at least 2, but no more than 4,] other members appointed by the States upon the recommendation of any specified committee.
2. The Chairman and other members of the Commission shall hold office for a period of five years (or such other shorter period as may be agreed between the States and any member appointed to the Commission) and vacate office as such in accordance with the terms of their appointments.
3. A person who ceases to hold office as a member of the Commission, or ceases to hold office as Chairman, shall be eligible for reappointment.
4. The Commission shall pay to the Chairman and other members of the Commission such remuneration, allowances, expenses, pensions and other benefits as the States may from time to time by resolution determine.
5. Every member of the Commission shall, before discharging any function under this Law, take an oath or make an affirmation before the Royal Court or the Court of Alderney in the terms set out at the foot of this part of the Schedule or in words to the like effect.
6. Where the members of the Commission meet together so as to transact any business –
  - (a) decisions shall be made and other matters determined or resolved by a majority of the members attending and voting in

favour of the decision or matter in question,

- (b) each member has one vote, and
- (c) in the event of an equality of votes, the Chairman has a second or casting vote.

7. The Commission may, if it thinks fit, transact any business by the circulation of papers to all of the members of the Commission, or by a telephone conference at which each member joining in that telephone conference call can hear each other member and a resolution in writing approved in writing or by oral confirmation during a telephone conference by a majority of the members of the Commission shall be as valid and effectual as if passed at a meeting of the Commission by the votes of the members so approving the resolution.

8. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members of the Commission or by any defect in the appointment of any such member.

9. The Commission shall keep proper minutes of its proceedings, including minutes of any business transacted as permitted by paragraph 7 of this Schedule.

10. Subject to this Law, the Commission shall have power to make rules to regulate its own procedure.

### **Oath/Affirmation of office**

"You [swear and promise on the faith and truth that you owe to God] [do solemnly, sincerely and truly declare and affirm] that you will well and faithfully discharge your functions as a member of the Alderney Commission for Renewable Energy in accordance with law; that you will exercise the powers entrusted to you only as

appears necessary to you for the discharge of those functions; and that you will not disclose any information received by you in the discharge of those functions which to your knowledge may directly lead to the identification of any person, save to persons engaged in the discharge of those functions; pursuant to an express power conferred by or under the Renewable Energy (Alderney) Law, 2007; or in any other case required by law."

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**NOTES**

*In the First Schedule, the words in square brackets in paragraph 1 were substituted by the Renewable Energy (Alderney) Ordinance, 2008, section 32(6), with effect from 10th November, 2008.*

*The following Ordinance has been made under the First Schedule:*

*Renewable Energy (Alderney) Ordinance, 2008.*

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<sup>1</sup> Prior to its substitution, section 2 was amended by the Renewable Energy (Alderney) Ordinance, 2008, section 32(2), with effect from 10th November, 2008.

<sup>2</sup> Prior to its substitution, section 7 was amended by the Renewable Energy (Alderney) Ordinance, 2008, section 32(4), with effect from 10th November, 2008.