

ORDER IN COUNCIL

ratifying a Projet de Loi

ENTITLED

The States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965

(Registered on the Records of the Island of Guernsey
on the 27th day of August, 1965.)



1965.

XI
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ORDER IN COUNCIL



IN THE ROYAL COURT OF THE ISLAND OF GUERNSEY

The 27th day of August, 1965, before Dr. Francis Coningsby, Lieutenant-Bailiff; present :—Sir John Leale, Wilfred John Corbet, Esquire, O.B.E., Théophile Le Messurier Allez, Bertram Guy Blampied, Stanley Walter Gavey, Esquires, Gilbert Carey de Jersey, Esquire, C.B., Carl Edward Blad, Albert Victor Dorey, Esquires, Laurence Francis de Vic Carey, Esquire, C.B., C.B.E., D'Arcy George Le Tissier, and William Burton Fox, Esquires, Jurats.

The Lieutenant-Bailiff having this day placed before the Court an Order of Her Majesty in Council dated the 3rd day of August, 1965, ratifying a *Projet de Loi* entitled “The States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965”, the Court, after the reading of the said Order in Council and after having heard Her Majesty’s Comptroller thereon, ordered that the said Order in Council be registered on the records of this Island, of which Order in Council the tenor followeth: —

At the Court at Buckingham Palace

The 3rd day of August, 1965.

PRESENT,

The Queen's Most Excellent Majesty.

LORD PRESIDENT
LORD RITCHIE OF DUNDEE
LORD SHEPHERD
MR. FRASER
MISS HERBISON

WHEREAS there was this day read at the Board a Report from the Right Honourable the Lords of the Committee of Council for the Affairs of Guernsey and Jersey, dated the 23rd day of July, 1965, in the words following, viz.:—

“YOUR MAJESTY having been pleased, by Your General Order of Reference of the 22nd day of February, 1952, to refer unto this Committee the humble Petition of the States of the Island of Guernsey, setting forth:—

‘1. That, in pursuance of their Resolutions of the 16th day of December, 1964, and the 28th day of April, 1965, the States of Deliberation at a meeting held on the said 28th day of April, 1965, approved a Bill or “Projet de Loi” entitled “The States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965” and requested the Bailiff to present a most humble Petition to Your Majesty in Council praying for Your Royal Sanction thereto. 2. That the said Bill or “Projet de Loi” is in the words and figures set forth in the Schedule hereunto annexed. And most humbly praying that Your Majesty might be graciously pleased to grant Your Royal Sanction to the Bill or “Projet de Loi” of the

States of Guernsey entitled "The States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965" and to order that the same shall have force of law in the Island of Guernsey.'

"THE LORDS OF THE COMMITTEE, in obedience to Your Majesty's said Order of Reference, have taken the said Petition and the said Projet de Loi into consideration, and do this day agree humbly to report, as their opinion, to Your Majesty, that it may be advisable for Your Majesty to comply with the prayer of the said Petition and to approve of and ratify the said Projet de Loi."

HER MAJESTY having taken the said Report into consideration is pleased, by and with the advice of Her Privy Council, to approve of and ratify the said Projet de Loi, and to order, as it is hereby ordered, that the same shall have the force of Law within the Island of Guernsey.

AND HER MAJESTY doth hereby further direct that this Order, and the said Projet de Loi (a copy whereof is hereunto annexed) be entered upon the Register of the Island of Guernsey and observed accordingly.

AND the Lieutenant Governor and Commander-in-Chief of the Island of Guernsey, the Bailiff and Jurats, and all other Her Majesty's Officers, for the time being, in the said Island, and all other persons whom it may concern, are to take notice and govern themselves accordingly.

W. G. AGNEW.

Projet de Loi referred to in the foregoing
Order in Council.

PROJET DE LOI

ENTITLED

The States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965

THE STATES, in pursuance of their Resolutions of the sixteenth day of December, nineteen hundred and sixty-four, and of the twenty-eighth day of April, nineteen hundred and sixty-five, 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 Guernsey.

1. In this Law, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:— Interpreta-
tion.

“the Board” means the States Water Board;

“occupier”, in relation to any premises, means the person who, not being the owner of those premises, is in or is entitled to actual possession of those premises;

“the Law of 1927” means the Law entitled “Loi ayant rapport à la Fourniture d'Eau par les Etats de cette Ile aux Habitants de la dite Ile” registered on the seventh day of May, nineteen hundred and twenty-seven^(a);

“owner”, in relation to any premises, means—

- (a) the beneficial owner, if those premises are not held in trust;
- (b) the trustees, if those premises are held in trust;

(a) Ordres en Conseil, Vol. VIII, p. 112.

“premises” includes land;

“the Royal Court” means the Royal Court sitting as an Ordinary Court;

“undertaking” means any undertaking by way of any trade or business.

Power of the
States to
make Ordin-
ances.

2. (1) The States may from time to time by Ordinance provide—

- (a) for prohibiting or regulating the doing of any act specified in the Ordinance for the purpose of protecting against pollution any water, whether on the surface or underground, which is under the control of the Board;
- (b) for the entry into and inspection of any premises for any purpose connected with the exercise of powers conferred by or under this Law;
- (c) for any incidental and supplementary matters for which the States deem it expedient for the purposes of the Ordinance to provide.

(2) An Ordinance made under this Law may prohibit the doing of anything regulated by the Ordinance except under the authority of a permit granted by the Board, and may be made so as to apply either to persons or undertakings generally or to any particular person or undertaking or class of persons or undertakings, and either to the whole or to any part of such undertakings, and so as to have effect either generally or in any particular area.

Power of
the Board
to require
works to be
executed,
etc.

3. (1) The Board may by notice in writing require the owner or occupier of any premises to execute and keep in good repair such works as it considers necessary for preventing the pollution of any water

under its control and, if he fails to comply with any such requirement, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding twenty pounds and to a further fine not exceeding five pounds for every day during which the offence continues after conviction therefor:

PROVIDED that any person who considers that a requirement made on him under this subsection is not reasonable may, within twenty-eight days after service on him of the requirement, appeal to the Royal Court and the Royal Court may, if it decides that the requirement is not reasonable, modify or disallow the requirement.

(2) Where any person has failed to comply with a requirement made on him under subsection (1) of this section and—

- (a) he has not appealed to the Royal Court against that requirement and the time for appealing has expired; or
- (b) his appeal has been dismissed or the requirement has been modified on his appeal and he has failed to comply with the requirement as so modified:

the Board may execute and keep in good repair the works specified in the requirement originally made or, as the case may be, as modified on appeal, and may recover the expenses reasonably incurred by it in so doing from that person in default as a civil debt.

(3) Subject to the provisions of the next succeeding subsection, the Board shall pay compensation to any person in respect of any expenses reasonably incurred by him in complying with any requirement made on him under subsection (1) of this section or, where such requirement has been modified on appeal,

with such requirement as so modified, as the case may be, and such compensation shall be in such amount as the Board may consider reasonable having regard to all the circumstances of the case including any increase in the value of the premises on which any works have been carried out in compliance with such requirement where such increase is attributable to such works:

PROVIDED that the Board shall, upon being requested by that person so to do, refer the question of the amount of compensation payable to that person under this subsection to two arbitrators, one appointed by the Board and one appointed by that person, which arbitrators shall appoint an umpire immediately after they themselves are appointed to determine that question should they fail to agree, and the decision of such arbitrators or umpire, as the case may be, shall be final.

(4) Compensation shall not be payable under the last preceding subsection in respect of any expenses incurred by any person in complying with any requirement made on him under subsection (1) of this section where such expenses were incurred—

- (a) in connection with the maintenance or repair of any works; or
- (b) in connection with any works necessitated by reason of a contravention of any of the provisions of any Ordinance under this Law or by reason of a contravention of section (5) of Article 5 of the Law of 1927, except in the case where a contravention of the said section (5) relates to the erection of an oil-storage tank or any apparatus ancillary thereto and that person has not at any time been directed by the Board to carry out any works in relation to such tank or apparatus so as to prevent the

pollution of water under the control of the Board or, if he has been so directed, has complied with the direction.

4. (1) Where the President of the Board has reason to believe that any thing used or proposed to be used on, in or over any premises is likely to pollute any water which is, or which may become, under the control of the Board and that if steps are not taken immediately to prohibit or restrict the use of such thing or to remove such thing from the place which it occupies it will be impracticable to prevent the pollution of such water by reason of the use of such thing, he may, by order served on the owner or occupier of those premises—

Power of the President of the Board to cause immediate steps to be taken to prevent the pollution of water.

- (a) prohibit the use of such thing;
- (b) permit the use of such thing only on such conditions as may be specified in the order;
- (c) whether in addition to prohibiting or permitting the use of such thing as aforesaid, require such thing to be removed from the place which it occupies to such other place as may be specified in the order;

and in the event of the owner or occupier, as the case may be, of those premises failing at any time while the order is in force to comply therewith or, where the order has been varied by the Royal Court under the next succeeding subsection, to comply with the order as so varied, the President of the Board may cause such steps to be taken as he may deem necessary to effect compliance with the order as originally made or as so varied, as the case may be, and may cause such steps to be taken to effect compliance with the order as originally made notwithstanding that an appeal is pending against the order under the next succeeding subsection.

(2) Any person who considers that an order served on him under subsection (1) of this section is not reasonable may, within twenty-eight days after service on him of the order, appeal to the Royal Court and the Royal Court may, if it decides that the order is not reasonable, vary or revoke the order.

(3) Any expenses reasonably incurred by the Board in respect of any steps taken at the instance of the President of the Board under subsection (1) of this section so as to effect compliance with any order under that subsection or, as the case may be, so as to effect compliance with any such order as varied by the Royal Court under the last preceding subsection, shall be recoverable by the Board as a civil debt from the person in default:

PROVIDED that where any such order—

- (i) has been revoked by the Royal Court under the last preceding subsection, such expenses shall not be recoverable from that person;
- (ii) has been varied as aforesaid after such expenses have been incurred, the Board shall only be entitled to recover from that person such expenses as, in the opinion of the Royal Court, would have been necessary to effect compliance with the order as so varied.

(4) In any case where the Royal Court revokes or varies an order made against any person under subsection (1) of this section and such person has, in the opinion of the Royal Court, sustained any loss by reason of any steps taken at the instance of the President of the Board under that subsection, the Royal Court may at the time of revoking or varying the order, as the case may be, order the Board to pay compensation to that person in respect of such loss in such amount as the Royal Court may determine.

(5) The President of the Board may revoke any order made under subsection (1) of this section at any time after the expiration of the twenty-eight days next following the service of that order:

PROVIDED that such an order shall not be revoked under this subsection if an appeal is pending against the order under subsection (2) of this section.

5. (1) If any person is guilty of any act or omission whereby any water under the control of the Board is polluted or likely to be polluted, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds and in the case of a continuing offence to a further fine not exceeding twenty pounds for every day during which the offence is continued after conviction.

Penalty for polluting water under control of the Board.

(2) Where an offence under subsection (1) of this section has been committed by any person in the course of his employment under a contract of service or apprenticeship, his employer as well as that person shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his consent or connivance and is not attributable to any neglect on his part.

6. Where by the act or omission on the part of any person any water under the control of the Board is polluted or is likely to be polluted, the Board may recover as a civil debt—

Right of the Board to recover expenses in certain cases.

- (a) from that person; or
- (b) if at the time of that act or omission that person was acting in the course of his employment under a contract of service or apprenticeship, from the employer of that person;

any expenses reasonably incurred by the Board by reason of that act or omission.

(2) On the conviction of any person of an offence under subsection (1) of this section, the Board may recover from that person as a civil debt any expenses reasonably incurred by the Board by reason of the commission of that offence.

False information.

7. If any person, in furnishing any information for the purposes of this Law or any Ordinance made thereunder, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding two hundred pounds or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment.

Obstruction.

8. If any person wilfully obstructs any person exercising any powers or performing any duties conferred or imposed on him under this Law or any Ordinance made under this Law, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty pounds.

Offences and penalties.

9. (1) Save as otherwise expressly provided by that Ordinance, any person who contravenes or attempts to contravene or fails to comply with any of the provisions of any Ordinance made under this Law or any direction given or requirement imposed under or by virtue of that Ordinance shall be guilty of an offence under that Ordinance.

(2) The States may from time to time by Ordinance prescribe the penalties which shall be incurred by any person guilty of any offence under any Ordinance made under this Law and different penalties may be so prescribed for different offences.

10. (1) Any appeal under this Law shall be Appeals. instituted by way of summons served on the President of the Board to show cause—

- (a) in the case of an appeal against a requirement made under subsection (1) of section three of this Law, why the requirement should not be modified or disallowed;
- (b) in the case of an appeal against an order under subsection (1) of section four of this Law, why the order should not be varied or revoked;

and such summons shall set out the material facts upon which the appellant relies.

(2) On any appeal—

- (a) against such a requirement, the burden of satisfying the Royal Court that the requirement is reasonable shall be discharged by the Board;
- (b) against such an order, the burden of satisfying the Royal Court that the order is reasonable shall be discharged by the President of the Board.

(3) The decision of the Royal Court on any appeal under this Law shall be final.

11. (1) Without prejudice to any special provision contained in any Ordinance made under this Law, a notice or order to be served for the purposes of this Law or of any Ordinance made under this Law may be served—

Service of
notices.

- (a) on any person by delivering it to him, by leaving it, or sending it by registered post or by recorded delivery service addressed to him, at his usual or last known place of abode;

(b) on any body corporate by leaving it at, or by sending it by registered post or by recorded delivery service to, its registered office if situated in Guernsey or, if its registered office is not so situated, its principal or last known principal place of business in Guernsey.

(2) Where two or more persons are the owners or occupiers of any premises, any notice or order served on one of those persons in accordance with the provisions of subsection (1) of this section shall, for the purposes of this Law or of any Ordinance made under this Law, be deemed to be service on all of those persons.

(3) Where the owner or occupier of any premises is an infant or a person under guardianship, any notice or order to be served in respect of those premises for the purposes of this Law or of any Ordinance made under this Law shall be served on the guardian of that infant or person, as the case may be, and in any case in which there is no guardian, the Board may apply to the Royal Court for the appointment of a guardian to act as such for the purposes of this Law.

Variation
and repeal of
Ordinances.

12. Any power conferred by this Law to make any Ordinance shall be construed as including a power exercisable in the like manner to vary or repeal the Ordinance.

Repeal.

13. Article 5 of the Law of 1927 is hereby repealed.

Citation and
commence-
ment.

14. (1) This Law may be cited as the States Water Supply (Prevention of Pollution) (Guernsey) Law, 1965, and this Law and the States Water Supply

Laws, 1927 to 1962, may be cited together as the States Water Supply Laws, 1927 to 1965.

(2) This Law shall come into force on such day as shall be appointed in that behalf by Ordinance of the States.

R. H. VIDELO,

Her Majesty's Greffier.