

PROJET DE LOI

ENTITLED

The Beaucette Quarry (Yacht Marina) (Control of Development and Use) Law, 1968 *

[CONSOLIDATED TEXT]

NOTE

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* Ordres en Conseil Vol. XXI, p. 301; as amended by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989 (Ordres en Conseil Vol. XXXI, p. 278); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006 (No. XXXVIII of 2006, Recueil d'Ordonnances Tome XXXI, p. 618); the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016). See also the Beaucette Quarry (Yacht Marina) (Control of Development and Use) (Implementation) Ordinance, 1969 (Recueil d'Ordonnances Tome XVI, p. 175).

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ARRANGEMENT OF SECTIONS

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WHEREAS Vale Investments Limited (hereinafter referred to as "**the Company**"), a Company registered in this Island and whose registered office is situate at The Albany in the parish of Saint Peter Port in this Island, is the owner of an area of land comprising a disused quarry known as Beaucette Quarry (hereinafter referred to as "**the said quarry**"), situate adjacent to the sea in the parish of the Vale in this Island and shown edged in red on a plan which for the purpose of identification has been signed by the Bailiff on the thirty-first day of July, nineteen hundred and sixty-eight, and lodged at the Greffe in this Island;

WHEREAS the Company proposes to develop the said quarry as a yacht marina, that is to say a harbour for use by yachts;

WHEREAS the Company, with the permission of the States, has caused a channel to be cut leading from the said quarry to the sea;

WHEREAS the States by their Resolution of the twenty-sixth day of June, nineteen hundred and sixty-eight, decided to direct the preparation of legislation to control the development and use of the said quarry as a yacht marina as aforesaid:

NOW THEREFORE THE STATES, in pursuance of their said Resolution, have approved the following provisions which, subject to the Sanction of Her Most Excellent Majesty in Council, shall have force of law in this Island.

Interpretation.

1. In this Law, except where the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say –

"the Board" means the States [States' Trading Supervisory Board],

"the Company" means Vale Investments Limited and includes its lawful assigns,

"the premises of the Company" means the area of land comprising the quarry situate adjacent to the sea in the parish of the Vale in this Island and shown edged in red on a plan which for the purpose of identification has been signed by the Bailiff on the thirty-first day of July, nineteen hundred and sixty-eight, and lodged at the Greffe in this Island, and includes any structure, whether movable or immovable, and any works for the time being within the said area of land,

"the quarry" means the disused quarry known as Beaucette Quarry, comprised in the premises of the Company and indicated on the said plan,

"yacht" means any vessel which is bona fide used exclusively for pleasure.

NOTES

In section 1, the words in square brackets in the definition of the expression "the Board" were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016.¹

The functions, rights and liabilities of the Public Services Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the States' Trading Supervisory Board and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 12(b), Schedule 2, Part 8, with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.²

Control of development and use of the premises of the Company.

2. (1) The premises of the Company shall not be used otherwise than in connection with the development and use thereof as a harbour for yachts or for any other purpose for the time being approved by the Board.

(2) The Company shall not cause or permit any works to be carried on in, on or under the premises of the Company otherwise than in accordance with such plans and specifications as shall have been approved by the Board.

(3) The Company shall ensure that the faces of the quarry are at all times sufficiently stable to withstand the tidal changes in the level of the water in the quarry.

(4) The Company shall, so far as may be reasonably practicable, ensure that the incursion of sea-water into the quarry shall not affect sources of fresh water supply outside the premises of the Company.

(5) Where, in the opinion of the Board, the Company has abandoned the development of the quarry as a harbour for yachts in accordance with such plans and specifications as are mentioned in subsection (2) of this section or has ceased to use the quarry as a harbour for yachts, the Company shall, if required so to do by the Board and at the expense of the Company, restore as nearly as may be the coastline existing before the cutting of the channel leading from the quarry to the sea.

Power of the States to make Ordinances.

3. (1) The States may from time to time by Ordinance make such provision as they deem necessary or expedient as respects the use of the premises of the Company as a harbour for yachts and, in particular, but without prejudice to the generality of the foregoing, may make provision –

- (a) to ensure the safety of any person or vessel using the premises of the Company,
- (b) prohibiting or restricting the use of the premises of the Company as a harbour,
- (c) requiring the Company to instal navigational aids, beacons, buoys or lights,

- (d) requiring the Company to remove wrecks and any other obstructions, and
- (e) in relation to the provision of customs and immigration facilities.

(2) 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.

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

Power of the Board to require the Company to make good its defaults, etc.

4. (1) Where, in the opinion of the Board, the Company has failed to comply with any of the provisions of section two of this Law or with any of the provisions of any Ordinance made under this Law, then, without prejudice to any other remedy or penalty under any such Ordinance, the Board may, by notice in writing served on the Company, require the Company to make good its default within such period as shall be specified in the notice.

(2) In the event of the Company failing to comply with any requirements made on it by such notice within the period specified in the notice, the Board may take such steps including the execution of any works, as it may deem necessary to effect compliance with such requirements and may recover from the Company the expenses incurred by the Board in so doing as a civil debt.

(3) A first charge in respect of such sum as may from time to time be prescribed by the States by Ordinance is hereby created on the premises of the Company in favour of the States to secure the recovery of any sum for the time being recoverable from the Company by the States under the last preceding

subsection.

(4) The Board may from time to time require the Company to provide good and sufficient surety or to obtain the guarantee of an insurance company or bank approved by the Board to be jointly and severally bound with the Company in such sum as shall be approved by the Board for the due execution of any works required to be carried out by the Company by or under this Law.

NOTES

The following Ordinance has been made under section 4:

Beaucette Quarry (Yacht Marina) (Control of Development and Use) (Implementation) Ordinance, 1969.

In accordance with the provisions of the Beaucette Quarry (Yacht Marina) (Control of Development and Use) (Implementation) Ordinance, 1969, section 1, with effect from 1st November, 1969, the amount of the first charge in favour of the States created on the premises of Vale Investments Limited by virtue of the provisions of subsection (3) shall be £1,000.

Entry and inspection of the premises of the Company, etc.

5. (1) Any person duly authorised in writing by the Board may, on producing, if so required, some duly authenticated document showing his authority, enter the premises of the Company –

- (a) for the purpose of making such inspections, examinations and inquiries as may be necessary to ascertain –
 - (i) whether any of the provisions of section two of this Law have been complied with,
 - (ii) whether any of the provisions of any Ordinance made under this Law or any requirement made on the Company under subsection (1) of the last preceding section has been complied with,
- (b) for the purpose of taking any such steps authorised by

subsection (2) of the last preceding section to be taken by the Board.

(2) A person authorised as aforesaid entering the premises of the Company by virtue of this section may take with him such other persons and such materials and equipment as may be necessary for the purpose of exercising any of his powers under this section.

(3) The Company, its agents and servants, shall furnish the means required by a person authorised as aforesaid as may be necessary for the purpose of exercising any of his powers under this section.

(4) If the Company or any of its agents or servants fails to comply with any requirements imposed under the last preceding subsection by any person authorised as aforesaid, the Company and such agent or servant of the Company shall be liable, on conviction, to a fine not exceeding [level 1 on the uniform scale].

NOTE

In section 5, the words and figure in square brackets were substituted by the Uniform Scale of Fines (Bailiwick of Guernsey) Law, 1989, section 2(2), with effect from 1st July, 1989.

Restriction on assignment of the premises of the Company and on the transfer of shares in the Company.

6. (1) The Company shall not assign, let or part with the possession of the premises of the Company or any part thereof without the previous consent in writing of the Board and any purported assignment, letting or transfer of the possession of the premises of the Company or any part thereof made without such consent having been obtained shall be illegal and of no effect.

(2) No shares in the Company shall be transferred without the previous consent in writing of the Board and any purported transfer of any shares in the Company made without such consent having been obtained shall be illegal and of no effect.

Company to indemnify the States, etc.

7. (1) The Company shall indemnify and keep indemnified the States against all losses and claims for injuries or damage to any person or property whatsoever which may arise out of or in consequence of any works carried out by or on behalf of the Company or of the use of the premises of the Company as a harbour or otherwise and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

(2) The Company shall insure in the joint names of the States and the Company against damage, loss or injury which may occur to any property or person arising out of or in consequence of any works carried out by or on behalf of the Company or of the use of the premises of the Company as a harbour or otherwise.

(3) Any insurance required to be effected by the Company under the last preceding subsection shall be effected with such insurer and in such terms as shall be approved by the Board and for at least such amount as shall be approved by the Board, and the Company shall whenever required produce to the Board the policies of insurance and the receipts for payment of the current premiums.

(4) If the Company shall fail to effect and keep in force any insurance under subsection (2) of this section, then the States may effect and keep in force any such insurance and pay such premiums as may be necessary for that purpose and recover the same from the Company as a civil debt.

Citation and commencement.

8. (1) This Law may be cited as the Beaucette Quarry (Yacht Marina) (Control of Development and Use) Law, 1968.

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

Provided that any powers conferred by this Law on the States to make any Ordinance may be exercised at any time after the registration of this Law and before the day appointed or to be appointed as aforesaid, subject to the restriction that any

such Ordinance shall not come into force until this Law comes into force.

NOTE

The Law was brought in to force on the 1st November, 1969 by the Beaucette Quarry (Yacht Marina) (Control of Development and Use) Law, 1968 (Commencement) Ordinance, 1969, section 1.

¹ These words were previously substituted by the Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006, section 2, with effect from 27th September, 2006; the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 3(a), with effect from 6th May, 2004.

² The functions, rights and liabilities of the Public Services Department and its Minister arising under or by virtue of this Law were transferred to and vested in them from, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) (No. 2) Ordinance, 2006, section 1, Schedule, with effect from 27th September, 2006, subject to the savings and transitional provisions in section 3 of the 2006 Ordinance; the functions, rights and liabilities of the Home Department and of its Minister arising under or by virtue of this Law were previously transferred to it from the States Board of Administration by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 3(a), Schedule 2, paragraph 2(a), with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.