

PROJET DE LOI

ENTITLED

The Wastewater Charges (Guernsey) Law, 2009 *

[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. VIII of 2010; as amended by the: Wastewater Charges (Guernsey) Ordinance, 2014 (No. XLIII of 2014); Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016 (No. IX of 2016); Wastewater Charges (Guernsey) Regulations, 2011 (G.S.I. No. 48 of 2011); Wastewater Charges (Guernsey) Regulations, 2012 (G.S.I. No. 75 of 2012); Wastewater Charges (Guernsey) Regulations, 2014 (G.S.I. No. 1 of 2014); Wastewater Charges (Guernsey) (Amendment) Regulations, 2014 (G.S.I. No. 71 of 2014); Wastewater Charges (Guernsey) Regulations, 2015 (G.S.I. No. 72 of 2015); Wastewater Charges (Guernsey) Regulations, 2016 (G.S.I. No. 63 of 2016); Wastewater Charges (Guernsey) Regulations, 2017 (G.S.I. No. 64 of 2017); Wastewater Charges (Guernsey) Regulations, 2018 (G.S.I. No. 48 of 2018); Wastewater Charges (Guernsey) (No. 2) Regulations, 2018 (G.S.I. No. 61 of 2018); Wastewater Charges (Guernsey) Regulations, 2018 (G.S.I. No. 88 of 2019); Wastewater Charges (Guernsey) Regulations, 2020 (G.S.I. No. 107 of 2020); Wastewater Charges (Guernsey) Regulations, 2021 (G.S.I. No. 113 of 2021). See also the: Deputy Bailiff (Guernsey) Law, 1969 (Ordres en Conseil Vol. XXII, p. 122); Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978 (Ordres en Conseil Vol. XXVI, p. 264); Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009 (No. VII of 2010).

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The Wastewater Charges (Guernsey) Law, 2009

ARRANGEMENT OF SECTIONS

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3. Exemptions.
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SCHEDULE Wastewater charges.

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The Wastewater Charges (Guernsey) Law, 2009

THE STATES, in pursuance of their Resolutions of the 31st October, 2007^a and of the 11th February, 2009^b, 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.

Wastewater charges payable.

1. Each charge specified in the Schedule is payable for each property liable to the charge by the person liable to that charge in accordance with this Law.

Properties liable to charges.

2. (1) The following properties are liable to the wastewater charges –
- (a) metered property – any property supplied with water by the [Board] by way of a metered supply, and
 - (b) unmetered chargeable property – any property, other than a metered property, that –
 - (i) falls within property reference B1.1, B1.2, B2.1, B2.2, B3.1 or B3.2 in Part I of Schedule 1 to the TRP Ordinance, or

^a Article I of Billet d'État No. XXI of 2007.

^b Article XIV of Billet d'État No. II of 2009.

- (ii) is of a kind or description prescribed by the States by Ordinance.

(2) Where –

- (a) any metered property, or
- (b) any unmetered chargeable property supplied with water by the [Board] otherwise than by measure,

is supplied with water by the [Board] by way of 2 or more pipes that enter the boundary of the property and are each connected to a main, that property is liable to a corresponding multiple of Charge A and Charge B.

(3) This section is subject to section 3.

NOTES

In section 2, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

The following Ordinances have been made under section 2:

*Wastewater Charges (Guernsey) Ordinance, 2014;
Taxation of Real Property (Guernsey and Alderney) (Amendment) Ordinance, 2018.*

In accordance with the provisions of the Wastewater Charges (Guernsey) Ordinance, 2014, section 1, with effect from 1st March, 2015 and subject to the transitional provisions in section 7 of the 2014 Ordinance, any non-domestic property with a private water supply is prescribed to be liable to wastewater charges under subsection (1)(b)(ii) of this section.

Exemptions.

3. (1) A metered property that has neither a drain to a public sewer nor a drain to a cesspool is –

- (a) in the case of a non-domestic property that also has no drain to a septic tank, exempt from all wastewater charges, and
- (b) in the case of a domestic property, exempt from Charge C.

(2) An unmetered chargeable property [(other than a non-domestic property with a private water supply)] is exempt from all wastewater charges if –

- (a) it is supplied with water by way of a pipe leading from a metered property, and
- (b) it is not a property supplied with water by the [Board] otherwise than by measure.

[(2A) Any non-domestic property with a private water supply that would otherwise be liable to wastewater charges under section 2(1)(b)(ii) is exempt from all wastewater charges if the drains in, and in connection with, that property are configured in such a manner that no water from its private water supply is discharged into a public sewer, cesspool or septic tank.]

(3) An unmetered chargeable property that is not exempt from wastewater charges under subsection (2) [or subsection (2A)] is exempt from Charge C if it has neither a drain to a public sewer nor a drain to a cesspool.

(4) Where, under section 4, the same person is liable to pay wastewater charges in respect of one or more properties shown on a single cadastral

map (and sharing a single Cadastre number), that property, or, as the case may be, the aggregate of those properties, is exempt from any more than a single multiple of Charge B –

- (a) regardless whether any other person is also liable (for example, in the case of joint liability) to pay wastewater charges in respect of that property or, as the case may be, any of those properties,
- (b) regardless of the number of pipes that supply that property or, as the case may be, those properties from a main, and
- (c) despite any other provision of this Law.

(5) Where, under subsection (4), an aggregate of properties is exempt from any more than a single multiple of Charge B, Charge B shall be divided equally amongst each of those properties and payable accordingly.

(6) For the avoidance of doubt, nothing in subsection (4) limits or otherwise affects the liability of the property or any of the properties referred to in that subsection to Charge C, and the appropriate multiples of Charge A, in accordance with this Law and subject to any exemption under subsection (1), (2) or (3).

(7) The burden of proving that a property is exempt from any wastewater charge under any of subsections (1) to (4) falls on the person claiming the exemption.

(8) Nothing in this section limits or otherwise affects any civil liability or obligation of any person to make any payment in respect of wastewater charges.

(9) In this section "**civil liability or obligation**" means a liability or obligation that arises by agreement or contract, or otherwise than directly under this Law.

NOTES

In section 3,

first, the words in the first pair of square brackets in subsection (2), second, subsection (2A) and, third, the words in square brackets in subsection (3) were inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, respectively paragraph 1, paragraph 2 and paragraph 3, with effect from 1st March, 2015;

the word in the second pair of square brackets in subsection (2) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Persons liable to pay charges.

4. (1) Subject to subsection (2), the person liable to pay the wastewater charges for a property –

- (a) in the case of a metered property, is the person liable to pay the water charges in respect of the metered water,
- (b) in the case of an unmetered chargeable property supplied with water by the [Board] otherwise than by measure, is the person liable to pay the water charges in respect of the water, and
- (c) in the case of any other unmetered chargeable property, is the owner of the property.

(2) If two or more persons are liable to pay a wastewater charge in respect of a property, their liability to the charge is joint and several.

(3) In this section, "**owner**", in relation to any property, has the meaning given by section 29(1) of the Sewerage (Guernsey) Law, 1974^c (substituting, for the word "premises", the word "property").

NOTE

In section 4, the word in square brackets in subsection (1) was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Calculation of Charge C.

5. (1) Charge C shall be calculated as follows –

- (a) for a metered property [other than a property with a private water supply], Rate 1 x (0.9 x volume of metered water in cubic metres), and
- (b) for an unmetered chargeable property [other than a property with a private water supply], Rate 2 x (number of assessable units of that property as determined under the TRP Ordinance)[, and]
- [(c) for a property with any private water supply –
 - (i) where a private supply meter is installed on each private water supply to the property, Rate 1 x (0.9 x volume of metered water in cubic

^c Ordres en Conseil, Vol. XXIV, p. 372.

metres), but

- (ii) in any other case, Rate 3.]

[(1A) The owner of a non-domestic property with a private water supply (or the occupier of the property, with the owner's written consent) may at any time make a written request to the [Board] to install a meter to measure the volume of water supplied through each private water supply to the property, for the purpose of enabling Charge C to be calculated for the property in accordance with subsection (1)(c)(i).

(1B) On receiving a request under subsection (1A), the [Board] must, at its own expense –

- (a) install the meter as soon as practicable and in any event within 2 months of receipt of the request, and
- (b) maintain or replace the meter as necessary.]

(2) Despite subsection (1)(a), any person liable to pay Charge C for [an eligible property] may, in writing, ask and agree with the [Board] to pay a reduced amount in respect of Charge C, if he can show to the [Board]'s satisfaction that no more than 85% of metered water by volume is, in aggregate, discharged to a public sewer, cesspool or septic tank.

(3) A reduced amount agreed under subsection (2) shall be calculated –

- (a) on the basis that the 0.9 multiplier in subsection (1)(a) [or (c)(i)] reflects the presumption that 90% of metered water in respect of the property is, in aggregate,

discharged to a public sewer, cesspool or septic tank,
and

- (b) making an appropriate allowance for the percentage volume of metered water that is not so discharged, averaged over a period of 3 months or any other period agreed between the person making the request and the [Board].

(4) An agreement under subsection (2) is subject to –

- (a) any conditions agreed between the person referred to in that subsection and the [Board], and
- (b) any conditions prescribed by the States by Ordinance,

(5) For the avoidance of doubt, a nil amount may be agreed under subsection (2), if it is shown to the [Board]'s satisfaction that none of the metered water is discharged to a public sewer, cesspool or septic tank.

(6) Unless the [Board] has agreed in writing to a reduced amount under subsection (2), it shall be taken to have refused a request made under that subsection upon the earlier of –

- (a) giving the requestor written notice of the [Board]'s refusal, or
- (b) the expiry of 6 months from the date of the request.

(7) On or before the refusal of a request, the [Board] shall serve the requestor a notice in writing stating that the requestor or any other person

aggrieved by that refusal may appeal against that refusal in accordance with section 10 within a period of 28 days after the date of that refusal.

(8) In this section, –

"discharged" means discharged through any drain, and

[**"eligible property"** means any non-domestic property that –

(a) is a metered property, or

(b) is not a metered property, but is a property with one or more private water supplies, on each of which a private supply meter is installed,]

[**"Rate 1"**, **"Rate 2"** and **"Rate 3"** refer to the respective rates specified in paragraph (c) of the Schedule.]

NOTES

In section 5,

in subsection (1), first, the words in square brackets in paragraph (a) and, second, the words in the first pair of square brackets in paragraph (b) were inserted, third, the punctuation and word at the end of paragraph (b) was substituted and, fourth, paragraph (c) was inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, respectively paragraph 4(a), paragraph 4(b)(i), paragraph 4(b)(ii) and paragraph 4(c), with effect from 1st March, 2015, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance;

subsection (1A) and subsection (1B) were inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, paragraph 5, with effect from 13th November, 2014, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance;

the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions)

Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016;

the words in square brackets in, first, subsection (2) were substituted and, second, in subsection (3) were inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, respectively paragraph 6 and paragraph 7, with effect from 1st March, 2015, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance;

the definitions of the expressions "eligible property" and "Rate 1", "Rate 2" and "Rate 3" in subsection (8) were, respectively, inserted and substituted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, paragraph 8(a) and paragraph 8(b), with effect from 1st March, 2015, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance.

The following Ordinance has been made under section 5:

Wastewater Charges (Guernsey) Ordinance, 2014.

Owner or occupier may request or require separate metered supply.

6. Nothing in section 5 limits or otherwise affects the right of any owner or occupier of a property to ask or require the [Board] to provide a metered supply to any part of that property, in accordance with, and subject to any charges imposed by or under, the States Water Supply Laws (including, for the avoidance of doubt, charges for the installation of a meter and for the cost of extending, laying or fixing pipes and apparatus).

NOTES

In section 6, the word in square brackets was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Inspections, measurements and tests.

7. (1) Any person authorised in writing by the [Board] may, on producing his written authorisation if requested, enter any property at any time between 10 a.m. and 4 p.m. of any day for any purpose specified in subsection (3).

(2) A person entering a property under subsection (1) may, for any purpose specified in subsection (3) –

- (a) carry out inspections, measurements and tests on the property, drains, water fittings[, any private supply meter], drain fittings, other things, wastewater or any other kind of water found on the property, [...]
- (b) without limiting paragraph (a), take away or photograph any samples of land, drains, water fittings[, any private supply meter], drain fittings, other things, wastewater or any other kind of water found on the property[, or]
- [(c) remove from the property, carry out maintenance work on, or replace, any private supply meter.]

(3) Subsections (1) and (2) refer to the following purposes –

- (a) to determine whether the property or any other property is exempt, or continues to be exempt, from any wastewater charge under this Law,
- [(aa) to determine whether any private supply meter needs maintenance or replacement, and if so, to carry out the maintenance or replacement,]
- (b) to determine the percentage volume of metered water that is, or is not, discharged to a public sewer, cesspool or septic tank from the property or any other property,

for the purposes of section 5(2) to (5), or

(c) any other purpose connected with the enforcement or implementation of this Law.

(4) Nothing in this section limits or otherwise affects any rights or powers of the [Board] conferred by or under any condition referred to in section 5(4).

NOTES

In section 7,

the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016;

in subsection (2), first, the words in the first pairs of square brackets in paragraph (a) and paragraph (b) were inserted, second, the word omitted at the end of paragraph (a) was repealed, third, the punctuation and word at the end of paragraph (b) was substituted and, fourth, paragraph (c) was inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 4(1), respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 1st March, 2015;

paragraph (aa) of subsection (3) was inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 4(2), with effect from 1st March, 2015.

Charges to be paid on service of account.

8. (1) A person liable to pay a wastewater charge in respect of any property shall pay the charge in the manner and at such times and intervals required by the [Board] by a written account served on the person.

(2) An account under subsection (1) shall include the following information –

- (a) the charge due and payable by the person,
- (b) the period within which that charge must be paid, not being less than 14 days after the date of the account,
- (c) the property and period of time for which that charge is payable,
- (d) the calculations made and rates used (if any) in determining that charge, and
- (e) a statement that that person or any other person aggrieved by the account may at any time –
 - (i) request the [Board] in writing to formally review the account under section 9, and
 - (ii) make written and oral representations to the [Board] for the purposes of the review.

(3) The [Board] may recover a charge payable by any person under this section as a civil debt due and payable by the person to the [Board].

(4) Where water charges and wastewater charges are set out in the same bill or other account, and the person paying that account pays less than the total of all those charges, the payment made shall be credited to the water charges (unless the [Board] decides otherwise) until those charges are fully paid, before any amount left over is credited to the wastewater charges.

NOTE

In section 8, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Review by [Board] of account.

9. (1) If any person referred to in section 8(2)(e) requests the [Board] in writing to formally review an account, the [Board] shall review the account taking into account any representations made by the person.

(2) Within 28 days of a written request to formally review an account, the [Board] shall –

- (a) confirm or vary that account, or revoke it and issue a new account (without the statement required by section 8(2)(e)), and
- (b) serve on that person a notice in writing stating –
 - (i) the [Board]'s decision and the reasons for it,
 - (ii) that that person or any other person aggrieved by the decision may appeal that decision in accordance with section 10 within a period of 28 days after the date the notice is served, and
 - (iii) that if that person does not make an appeal in accordance with subparagraph (ii), that decision (and the confirmed, varied, or re-issued account) is final and conclusive.

(3) Without limiting its scope, a review of an account may, at the

request of the person asking for the review, include a review of all or any of the following –

- (a) the amount of the charge specified in the account,
 - (b) whether the person on whom the account is served (as opposed to someone else) is liable to that charge,
 - (c) whether the property specified in that account is liable to that charge, or exempt from it.
- (4) For the avoidance of doubt, nothing in this section –
- (a) precludes an informal review or examination of the account by an officer, employee or agent of the [Board], before a request is made for a formal review of the account under this section, or
 - (b) limits or otherwise affects any person's liability or obligation to pay water charges.

NOTE

In section 9, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Right of appeal.

- 10.** (1) This section applies where the [Board] –
- (a) has refused to agree on a reduced amount for Charge C

under section 5, or

- (b) has notified its decision following a review of an account under section 9.

(2) Where this section applies, any person aggrieved by the refusal referred to in subsection (1)(a) or, as the case may be, the decision referred to in subsection (1)(b), may appeal that refusal or decision to the Royal Court in accordance with this section.

(3) An appeal against a refusal or a decision may be made on any of the following grounds –

- (a) the refusal or decision was *ultra vires* or there was some other error of law,
- (b) the refusal or decision was unreasonable,
- (c) the refusal or decision was made in bad faith,
- (d) there was a lack of proportionality, or
- (e) there was a material error as to the facts or as to the procedure.

(4) An appeal must be made –

- (a) within a period of 28 days after –
 - (i) the date of the refusal, in the case of an appeal against a refusal, or

(ii) the date on which notice of the decision was served under section 9(2)(b), in the case of an appeal against a decision, and

(b) by summons served on the [Board] stating the grounds and material facts on which the appellant relies.

(5) At the appellant's request, the Court may suspend or modify, on such terms and conditions as the Court thinks just, –

(a) the effect of the refusal,

(b) the effect of the decision, and

(c) for the avoidance of doubt, any liability that arises directly under this Law to pay an account issued by the [Board] for wastewater charges.

(6) On an appeal, the [Board] may apply to the Court, by summons served on the appellant, for an order that the appeal be dismissed for want of prosecution; and on hearing the application the Court may –

(a) dismiss the appeal or the application (in either case on such terms and conditions as the Court may direct), or

(b) make such other order as the Court considers just.

(7) On determining an appeal, the Court may –

(a) set the refusal or the decision in question aside and, if

the Court considers it appropriate to do so, remit the matter to the [Board] with such directions as the Court thinks fit, or

(b) confirm that refusal or decision, in whole or in part.

(8) An appeal from a decision of the Court under this section lies to the Court of Appeal on a question of law.

(9) Subsection (6) is without prejudice to the inherent powers of the Court or to the provisions of rule 52 of the Royal Court Civil Rules, 2007^d.

(10) In this section, "**Royal Court**" or "**Court**" means the Royal Court sitting as an Ordinary Court, constituted by the Bailiff sitting unaccompanied by the Jurats; and for the purposes of an appeal under this section the Court may appoint one or more assessors to assist it in the determination of any matter before it.

NOTES

In section 10, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

In accordance with the provisions of the Deputy Bailiff (Guernsey) Law, 1969, section 5(4), with effect from 9th September, 1969, in the event of the Deputy Bailiff discharging any functions or exercising any powers appertaining to the office of Bailiff which he is authorised to discharge or exercise under or by virtue of the 1969 Law, the provisions contained herein relating to the discharge of such functions or the exercise of such powers shall have effect as if the reference herein to the Bailiff included a reference to the Deputy Bailiff.

Purposes to which wastewater charges may be put.

^d Order No. IV of 2007.

11. (1) All wastewater charges payable under this Law shall be paid to the [Board] and used in accordance with this section.

(2) The [Board] shall use the monies collected in respect of Charge A and Charge C to help offset the costs (including fixed costs) of running the public sewerage network.

(3) The [Board] shall use the monies collected in respect of Charge B to fund investigations into wastewater treatment options for the Island.

(4) Nothing in this section precludes the [Board] –

(a) using an agent to collect one or more of the wastewater charges, or

(b) whether or not an agent is used, deducting a reasonable part of the monies collected to offset the costs of collecting those charges.

NOTE

In section 11, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Charge B may lapse after 4 years.

12. Unless it is renewed or extended by a resolution or Ordinance of the States, Charge B lapses on the fourth anniversary of this Law coming into force.

Determination of property references and assessable units.

13. (1) Where, under any provision of this Law, it is necessary to

determine –

- (a) whether a property falls within a property reference in Part I of Schedule 1 to the TRP Ordinance, or
- (b) the number of assessable units of any property under that Ordinance,

the determination of the States of Guernsey [Policy & Resources Committee] in force under the TRP Ordinance at the relevant point in time is conclusive as to the matter.

(2) Subsection (1) is subject to the outcome of any review or appeal under the TRP Ordinance.

NOTES

In section 13, the words in square brackets were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 2, Schedule 1, paragraph 15(a), with effect from 1st May, 2016.

The functions, rights and liabilities of the Treasury and Resources Department and of its Minister or Deputy Minister arising under or by virtue of this Law were transferred to and vested in, respectively, the Policy & Resources Committee and its President or Vice-President by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 1, Schedule 1, paragraph 15(a), with effect from 1st May, 2016, subject to the savings and transitional provisions in section 3 of the 2016 Ordinance.

Service of documents.

14. (1) Any document to be served for the purposes of this Law is validly served, in the case of an individual or body, by being left at, or sent by post to, the address of the individual or body for the time being notified to the [Board] as the address for service, or, if there is no such address –

- (a) in the case of an individual, by being delivered to him or by being left at, or sent by post to, his usual or last known place of abode,
- (b) in the case of a body corporate with a registered office in the Island, by being left at, or sent by post to, that office,
- (c) in the case of a body corporate without a registered office in the Island, by being left at, or sent by post to, its principal or last known principal place of business in the Island or, if there is no such place, its registered office or principal or last known principal place of business elsewhere,
- (d) in the case of an unincorporated body –
 - (i) by being served on any partner, member, manager, director or other similar officer thereof at the address for the time being notified to the [Board] as the address for service to him, or, if there is no such address, in accordance with paragraph (a), or
 - (ii) by being left at, or sent by post to, the body's principal or last known principal place of business in the Island or, if there is no such place, its principal or last known principal place of business elsewhere, and
- (e) in the case of the [Board], by being left at, or sent by

post to, its principal offices in the Island.

(2) If a person on whom a document is to be served for the purposes of this Law is an infant or person under guardianship, the document shall be served on his guardian; and, if there is no guardian, the [Board] may apply ex parte to the Royal Court for the appointment of a person to act as guardian for the purposes of this Law.

(3) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published on two occasions in La Gazette Officielle.

(4) Subsections (1) to (3) are without prejudice to any other lawful method of service.

(5) Where two or more persons are liable to pay wastewater charges for any property, service of a document on one of them in accordance with the provisions of this section is deemed, for the purposes of this Law, to be service on all of them.

(6) No document to be served on the [Board] under this Law shall be deemed to have been served until it is received.

(7) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received –

- (a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting, and
- (b) in the case of a document sent elsewhere by airmail, on

the seventh day after the day of posting,

excluding in each case a day that is not a business day.

(8) Service of a document sent by post shall be proved by showing the date of posting, the address thereon and the fact of prepayment.

(9) Without prejudice to any other provision of this section, a document relating to any property in the Island which is to be served for the purposes of this Law on the owner or occupier of that property may be served –

- (a) by being left at, or sent by post to, that property, or
- (b) where the foregoing is impracticable, by being affixed to some conspicuous part of or about that property.

(10) If the name of the owner or occupier of any property on whom a document is to be served for the purposes of this Law cannot after reasonable inquiry be ascertained, the document may be served by addressing it to the person on whom it is to be served by the description of "owner" or "occupier" of the property (describing it) to which the document relates.

(11) In this section –

"business day" means any day other than –

- (a) a Saturday, a Sunday, Christmas Day or Good Friday,
or
- (b) a day appointed as a public holiday by Ordinance of the States of Deliberation under section 1(1) of the Bills of

Exchange (Guernsey) Law, 1958^e,

"by post" means by registered post, recorded delivery service or ordinary letter post, and

"serve" includes **"give"**; and cognate expressions shall be construed accordingly.

NOTES

In section 14, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

In accordance with the provisions of the Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978, section 1(1), section 1(2) and section 3, with effect from 1st July, 1978 and subject to the saving provision in section 1(6) of the 1978 Law, the reference in this section to an "infant" shall be construed as a reference to a "minor", that is to say a person under the age of 18 years.

In accordance with the provisions of the Children (Consequential Amendments etc.) (Guernsey and Alderney) Ordinance, 2009, section 2, with effect from 4th January, 2010, and having regard to the references in this section to "guardian", a guardian or person referred to as such has parental responsibility in respect of a child if the conditions in paragraph (a) or paragraph (b) of that section are satisfied.

Power to amend Law by Ordinance.

15. (1) The States may by Ordinance amend all or any of the following provisions of this Law, in relation to the subject matter specified for the relevant provision –

(a) section 3, in relation to exemptions from wastewater

^e Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; No. XI of 1993; and No. XIV of 1994.

charges,

- (b) section 4, in relation to the persons liable to pay wastewater charges,
- (c) section 5, in relation to the calculation of Charge C,
- (d) section 11, in relation to the uses to which wastewater charges may be put, and
- (e) section 14, in relation to service of documents.

(2) Nothing in subsection (1) limits or otherwise affects any other provision of this Law conferring power to make Ordinances.

NOTE

The following Ordinance has been made under section 15:

Wastewater Charges (Guernsey) Ordinance, 2014.

General provisions as to Ordinances.

- 16.** (1) An Ordinance under this Law –
- (a) may be amended or repealed by a subsequent Ordinance made under this Law, and
 - (b) may contain such consequential, incidental, supplementary, transitional and savings provisions as may appear to be necessary or expedient (including, without limitation, consequential amendments to this Law and any other enactment).

(2) Any power conferred by this Law to make an Ordinance 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 different provision for the same case for different purposes,

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

(iv) different provision for different classes, descriptions and categories of properties, persons, or charges.

(3) Without prejudice to the generality of subsections (1) and (2), an Ordinance under this Law –

- (a) may make provision under the powers conferred by this Law notwithstanding the provisions of any other enactment for the time being in force,
- (b) may empower the [Board], and any other person, body, authority or [Board] (including, without limitation, the Royal Court and any other court of the Island), to make subordinate legislation, codes or guidance as to matters in relation to which an Ordinance may be made under this Law,
- (c) may repeal, replace, amend, extend, adapt, modify or disapply any rule of custom or law, and
- (d) without prejudice to the generality of paragraphs (a) to (c), may make any such provision of any such extent as might be made by Projet de Loi.

NOTE

In section 16, the word "Board" in square brackets, wherever occurring, was substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016.

Consequential amendments.

17. (1) The definition of "fee" in section 6(1) of the Fees, Charges and Penalties (Guernsey) Law, 2007^f is amended by inserting, after the word "States", the words "or any rate to be used in the calculation of such a charge, penalty or other amount".

^f Order in Council No. VII of 2008.

(2) Part A of the Schedule to the Fees, Charges and Penalties (Guernsey) Law, 2007^g is amended by inserting, after the entry relating to the Tattooing, Piercing, Acupuncture and Electrolysis (Guernsey and Alderney) Law, 2000^h, the following entry –

"Wastewater Charges (Guernsey) Law, 2009	Charge A and Charge B of the wastewater charges; Rate 1 and Rate 2 specified in the Schedule for the purposes of calculating Charge C	Public Services Department" ¹
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(3) The amendment made by subsection (2) shall be regarded for all purposes as if it is effected by Ordinance made by the States under section 1(2) of the Fees, Charges and Penalties (Guernsey) Law, 2007ⁱ.

Interpretation.

18. (1) In this Law, unless the context requires otherwise –

"account" means an account for wastewater charges,

"assessable unit" has the meaning given by section 2 of the TRP Ordinance,

"cesspool" means a pool or pit that collects wastewater from one or more properties where it is held until such time as it can be removed for

^g Order in Council No. VII of 2008.

^h Order in Council No. V of 2000.

ⁱ Order in Council No. VII of 2008.

treatment or disposal through the public sewerage network,

"Charge A", "Charge B", and "Charge C" refers to the respective charge specified in the Schedule,

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

"document" means any notice or account, but excludes a summons,

"domestic", in relation to a property, refers to a property that is not a non-domestic property,

"drain", in relation to a property, –

- (a) means a channel, conduit or pipe running from the property and used for the conveyance of wastewater from the property, and
- (b) includes a drain shared with, or running through, any other property,

"enactment" means any Law, Ordinance or subordinate legislation,

"Island" means the island of Guernsey,

"this Law" includes any Ordinance or subordinate legislation made under it,

"main" means a pipe vested in the [Board] and used by the [Board] for the purpose of making a general supply of water available to customers of

the [Board] (as opposed to the purpose of providing a supply to a particular property),

"metered property" means property of the kind described in section 2(1)(a),

"metered supply", in relation to a property, means a pipe that –

- (a) enters the boundary of the property,
- (b) is connected to a main, and
- (c) is fitted with a meter to measure and charge for the quantity of water supplied from the main,

[**"metered water"**, in relation to any property, means the aggregate volume of –

- (a) any water supplied by the [Board] to the property by way of a metered supply, and
- (b) any water supplied to the property from a private water supply on which a private supply meter is installed,]

"non-domestic", in relation to a property, refers to a property falling within any property reference between B4.1 to B12.1, or L1.1 to L5.1 (inclusive of all those references) in Part I of Schedule 1 to the TRP Ordinance,

[**"private supply meter"**, in relation to any private water supply, means a meter that –

- (a) is installed by the [Board] on the private water supply –
 - (i) under section 5(1B), or
 - (ii) by way of replacement for a meter installed under section 5(1B),
- (b) is in good working order, and
- (c) correctly and accurately measures the volume of water supplied from the private water supply,]

["**private water supply**" means a supply of water other than water supplied by the [Board],]

"property" means any particular land, building or other property that–

- (a) is immovable property under the law of the Island, and
- (b) has been or is eligible to be allocated a separate property reference under the TRP Ordinance,

and, for the avoidance of doubt, a land parcel, a multi-sided building or a cluster of buildings may each contain two or more properties, and two or more properties may be shown on the same cadastral map (and share the same Cadastre number),

"public sewer" has the meaning given by section 5 of the Sewerage

(Guernsey) Law, 1974^j,

"public sewerage network" means the system of collectors, pipelines, conduits and pumps maintained by the [Board] to conduct wastewater from the point of generation to the place of disposal or treatment,

"serve", in relation to a document, has the meaning given by section 14; and cognate expressions shall be construed accordingly,

"States Water Supply Laws" means the States Water Supply Laws, 1927 to 1997^k and includes the Water Charges Ordinance, 1991^l,

"subordinate legislation" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect,

"TRP Ordinance" means the Taxation of Real Property (Guernsey and Alderney) Ordinance, 2007^m,

"unmetered chargeable property" means property of the kind described in section 2 (1)(b),

"wastewater" means –

^j Ordres en Conseil, Vol. XXIV, p. 372.

^k Ordres en Conseil Vol. VIII, p. 112, as amended by Ordres en Conseil Vol. XI, p. 236; Vol. XV, p. 272; Vol. XXVI, p. 536; Vol. XXX, pp. 118 and 219; and Vol. XXXIII, p. 133.

^l Recueil d'Ordonnances, Tome XXV, p. 287, as amended by Recueil d'Ordonnances, Tome XXIX, p. 594.

^m Recueil d'Ordonnances, Tome XXXII, p. 504, as amended by Ordinance No. X of 2008.

- (a) water that has been used, for example for drinking, washing, cleaning, bathing or flushing, or
- (b) water supplied to a property, whether by the [Board] or otherwise, even if that water has not been used,

"wastewater charge" or **"charge"** means a charge referred to in section 1 and specified in the Schedule, and

"water charges", in respect of any property, means charges imposed by or under the States Water Supply Laws for the supply of water to the property by the [Board],

[**"with a private water supply"**, in relation to any property, means the property receives or is equipped to receive a private water supply, whether or not the property is also supplied with water by the [Board].]

(2) Unless the context requires otherwise, references to any enactment are references thereto as amended, varied, re-enacted (with or without modification), extended or applied.

NOTES

In section 18,

the words, first, "Board" and, second, "States' Trading Supervisory Board" in square brackets in the definition of the expression "Board" in subsection (1) and, third, the word "Board" in square brackets wherever else occurring were substituted by the Organisation of States' Affairs (Transfer of Functions) Ordinance, 2016, respectively section 5(1), Schedule 3, paragraph 12, section 2, Schedule 1, paragraph 12(b), Schedule 2, Part 8 and section 5(1), Schedule 3, paragraph 12, with effect from 1st May, 2016;

first, the definition of the expression "metered water" in subsection

(1) was substituted and, second, the definitions of the expressions "private supply meter", "private water supply" and "with a private water supply" therein were inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, paragraph 9, respectively paragraph (a) and paragraph (b), with effect from 1st March, 2015, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance.

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.

Citation.

19. This Law may be cited as the Wastewater Charges (Guernsey) Law, 2009.

Commencement.

20. This Law comes into force on a date to be specified by the States by Ordinance.

NOTE

The Law was brought into force on 1st April, 2011 by the Wastewater Charges (Guernsey) Law, 2009 (Commencement) Ordinance, 2010, section 1.

SCHEDULE Sections 1, 5, and 18(1)
WASTEWATER CHARGES

- (a) Charge A: [£100.60] per year for each property, or, where section 2(2) applies, for each pipe referred to in that section.
- (b) Charge B: [£0.00] per year for each property, or, where section 2(2) applies, for each pipe referred to in that section.
- (c) Charge C: calculated in accordance with section 5, using –

Rate 1	–	[£1.94]
Rate 2	–	[£0.51].
[Rate 3	–	see paragraphs (d), (e) and (f)]

- [(d) Rate 3 for a non-domestic property is –

- (i) where a private supply meter was previously installed on the private water supply to the property and –

(A) Charge C for the property was previously calculated in accordance with section 5(1)(c)(i)), but

(B) the private supply meter is no longer so installed,

Rate 1 x (0.9 x deemed volume of metered water in cubic metres), and

- (ii) in any other case, [£5,430].

- (e) Rate 3 for a domestic property is –

- (i) in the case of a metered property, Rate 1 x (0.9 x volume of metered water in cubic metres),
- (ii) in the case of an unmetered chargeable property –
 - (A) where the owner of the property (or the occupier of the property, with the owner's written consent) has agreed with the Board to the installation of a meter to measure the volume of water supplied through each private water supply to the property for the purpose of enabling Charge C to be calculated for the property, and the meter is so installed, Rate 1 x (0.9 x volume of metered water in cubic metres),and
 - (B) in any other case, Rate 2 x (number of assessable units of that property as determined under the TRP Ordinance).
- (f) In paragraph (d)(i), the deemed volume of metered water in cubic metres for a property must be calculated by averaging the volume of metered water in cubic metres used for the calculation of Charge C for the property in accordance with section 5(1)(c)(i)) over the last 12 months during which the private supply meter was installed on the private water supply to the property.]

NOTES

In the Schedule,

the symbols and figures in, first, the first, third and fourth pairs of square brackets and, second, the square brackets within paragraph (d)(ii) were substituted by the Wastewater Charges (Guernsey) Regulations, 2021, regulation 2, respectively paragraph (a) and paragraph(b), with effect from 1st January, 2022, subject to the transitional provisions in regulation 4 of the 2021 Regulations;²

the symbol and figures in the second pair of square brackets were

substituted by Wastewater Charges (Guernsey) (Amendment) Regulations, 2014, regulation 2, with effect from 1st January, 2015, subject to the transitional provisions in regulation 4 of the 2014 Regulations;

the words in the fifth pair of square brackets (which words were originally were inserted by the Wastewater Charges (Guernsey) Ordinance, 2014, section 2, Schedule, paragraph 10, with effect from 1st March, 2015, subject to the transitional provision in section 6, section 7 and section 8 of the 2014 Ordinance) were substituted by the Wastewater Charges (Guernsey) (No. 2) Regulations, 2018, regulation 2(2), with effect from 1st January, 2019;

paragraph (d), paragraph (e) and paragraph (f) were inserted by the Wastewater Charges (Guernsey) (No. 2) Regulations, 2018, regulation 2(3), with effect from 1st January, 2019.

¹ For subsequent amendments, see the consolidated text of the Fees, Charges and Penalties (Guernsey) Law, 2007.

² These symbols and figures were previously substituted by the Wastewater Charges (Guernsey) Regulations, 2011, regulation 2, with effect from 1st January, 2012, subject to the transitional provisions in regulation 4 of the 2011 Regulations; the Wastewater Charges (Guernsey) Regulations, 2012, regulation 2, with effect from 1st January, 2013, subject to the transitional provisions in regulation 4 of the 2012 Regulations; the Wastewater Charges (Guernsey) Regulations, 2014, regulation 2, with effect from 10th January, 2014, subject to the transitional provisions in regulation 4 of the 2014 Regulations; the Wastewater Charges (Guernsey) (Amendment) Regulations, 2014, regulation 2, with effect from 1st January, 2015, subject to the transitional provisions in regulation 4 of the 2014 Regulations; the

Wastewater Charges (Guernsey) Regulations, 2015, regulation 2, with effect from 1st January, 2016, subject to the transitional provisions in regulation 4 of the 2015 Regulations; the Wastewater Charges (Guernsey) Regulations, 2016, regulation 2, with effect from 1st January, 2017, subject to the transitional provisions in regulation 4 of the 2016 Regulations; the Wastewater Charges (Guernsey) Regulations, 2017, regulation 2, with effect from 1st January, 2018, subject to the transitional provisions in regulation 4 of the 2017 Regulations; the Wastewater Charges (Guernsey) Regulations, 2018, regulation 2, with effect from 1st January, 2019, subject to the transitional provisions in regulation 4 of the 2018 Regulations; Wastewater Charges (Guernsey) Regulations, 2019, regulation 2, with effect from 1st January, 2020, subject to the transitional provisions in regulation 4 of the 2019 Regulations; the Wastewater Charges (Guernsey) Regulations, 2020, regulation 2(1), with effect from 1st January, 2021, subject to the transitional provisions in regulation 4 of the 2020 Regulations.