



Jersey

WATER POLLUTION (JERSEY) LAW 2000

Official Consolidated Version

This is an official version of consolidated legislation compiled and issued under the authority of the Legislation (Jersey) Law 2021.

27.800

Showing the law from 28 September 2021 to Current



Jersey

WATER POLLUTION (JERSEY) LAW 2000

Contents

Article

PART 1	7
INTRODUCTORY	7
1 Interpretation	7
2 Meaning of “controlled waters”	9
3 Extension of controlled waters	10
4 Meaning of “pollution”	10
PART 2	11
ADMINISTRATION	11
5 General objectives of Minister	11
6 Operating considerations	11
7 Gathering of information	11
8 Dissemination of information	12
9 Consultation with other persons	13
10 Public notice of proposals	13
11 Provision of services	15
PART 3	15
WATER QUALITY	15
12 Water Quality Orders	15
13 Compliance with water quality objectives	15
14 Water Management Orders	16
15 Contravention of Water Management Orders	17
16 Approved codes of practice	17
PART 4	18
POLLUTION OFFENCES	18
17 Pollution offences	18
18 Statutory defences	18

PART 5	19
AUTHORIZED DISCHARGES	19
19 High risk substances	19
20 Applications in respect of discharge permits	20
21 Discharge permits	20
22 Conditions of discharge permits	20
23 Variation and revocation of discharge permits	21
24 Suspension of discharge permits	21
25 Transfer of discharge permits	22
26 Discharge certificates	22
27 Notice of decisions	23
28 Charges for discharge permits	23
PART 6	24
ENFORCEMENT	24
29 Appointment of designated officers	24
30 Proof of authority	24
31 Persons who may accompany designated officers	24
32 General powers of entry and investigation	25
33 Co-operation by owners and others	26
34 Access to documents and records relating to water quality	27
35 Provision of information about potential pollution	27
36 Control of potential pollution	27
37 Remedial action by polluters	28
38 Manner of exercising powers	28
39 Remedial action by Minister	29
40 Injunctions	29
PART 7	30
GENERAL	30
41 Application for protection of trade secret	30
42 Information that is protected	31
43 Information that is not protected	31
44 Appeals	32
45 Compensation	32
46 Interference with apparatus	34
47 False information	34
48 Criminal liability	34
49 Evidence	35
50 Limitation of liability of Minister	35
51 Service of documents	35
52 Subordinate legislation	36
53 Relationship to other enactments	37
54 Implementation of international obligations	37
55 Application to Crown	37
56 Transitional	38
57 Citation	38

SCHEDULE 1	39
INFORMATION THAT NEED NOT BE DISCLOSED	39
SCHEDULE 2	40
HIGH RISK SUBSTANCES	40
SCHEDULE 3	41
TRANSITIONAL PROVISIONS	41
ENDNOTES	42
Table of Legislation History	42
Table of Renumbered Provisions	42
Table of Endnote References	43



Jersey

WATER POLLUTION (JERSEY) LAW 2000¹

A LAW to provide for the control of pollution in Jersey waters, and the implementing of provisions of the Convention for the Protection of the Marine Environment of the North-East Atlantic concluded in Paris on 22nd September 1992; the monitoring and the classification of waters; the setting of quality objectives for classified waters; administrative, regulatory, preventive and remedial measures; and related purposes

Commencement [[see endnotes](#)]

PART 1

INTRODUCTORY

1 Interpretation

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

“approved” means approved in writing by the Minister;

“approved code of practice” means a code of practice that is approved by the Minister by an Order made under Article 16;

“best environmental practice” has the same meaning as it has in the Convention;

“best techniques” has the same meaning as it has in the Convention;

“business” includes any trade, industrial or commercial activity or profession;

“certificate of confidentiality” means a certificate of confidentiality granted under Article 41;

“clean technology” has the same meaning as it has in the Convention;

“Company” means the Jersey New Waterworks Company Limited, as defined in Article 1(1) of the [Water \(Jersey\) Law 1972](#);

“conform to”, when referring to an approved code of practice –

- (a) in the case of an act, means to do that act in accordance with the code; and
- (b) in the case of an omission, means to make that omission in accordance with the code;

“contravene”, when used in respect of a person who must comply with a requirement in or under this Law, includes to fail to comply;

“Convention” means the Convention for the Protection of the Marine Environment of the North-East Atlantic concluded in Paris on 22nd September 1992;

“Court” means the Royal Court;

“designated officer” means a person appointed under Article 29 as a designated officer;

“discharge certificate” means a discharge certificate in writing that is issued by the Minister under Article 26 and is in effect;

“discharge permit” means a discharge permit in writing that is granted by the Minister under Article 21 and is in effect;

“energy” has the same meaning as it has in the Convention;

“hovercraft” means a vehicle that is designed to be supported, when in motion, wholly or partly by air expelled from the vehicle to form a cushion of which the boundaries include the ground, water or other surface beneath the vehicle;

“land” –

- (a) includes any house, building or premises; and
- (b) also includes land under water;

“micro-organism” includes any microscopic, biological entity that is capable of replication;

“Minister” means the Minister for the Environment;

“monitor”, when referring to controlled waters, includes to measure from time to time –

- (a) the quality of controlled waters and their sediments and biota;
- (b) activities, and additions to and inputs into controlled waters, that affect or may affect the quality of controlled waters; and
- (c) the effects on controlled waters of those activities, additions and inputs;

“persistency” has the same meaning as it has in the Convention;

“prescribed” means prescribed by an Order made under this Law;

“public sewer” –

- (a) means a public sewer or public outfall as defined in Article 1(1) of the [Drainage \(Jersey\) Law 2005](#); and
- (b) also means any works that are vested in or maintained by the Minister for Infrastructure in his or her capacity as the sewerage

undertaker for Jersey, and relate to the reception, handling, conveying, treatment or disposal of sewage;

“records” includes computer records and records kept otherwise than in documents;

“representation” includes an objection;

“slimicides” has the same meaning as it has in the Convention;

“stream” includes any brook, canal, culvert, ditch, lavoir, sluice or spring;

“substance” –

(a) includes any matter whatever (whether it is in solid or liquid form, or is in the form of gas or vapour, or is radioactive matter or is natural or artificial); and

(b) also includes any micro-organism;

“suspend”, when referring to a discharge permit or a discharge certificate, means to suspend its effect;

“transboundary significance” has the same meaning as it has in the Convention;

“vary”, when referring to a discharge permit or discharge certificate, includes to vary any condition of the permit or certificate;

“Water Management Area” means a geographical area designated by a Water Management Order;

“Water Management Order” means an Order made under Article 14(1);

“Water Quality Order” means an Order to which Article 12 refers.²

- (2) In this Law, references to the Minister for Infrastructure in his or her capacity as the sewerage undertaker for Jersey are references to the Minister for Infrastructure in that capacity by reason of Article 2 of the [Drainage \(Jersey\) Law 2005](#).³

2 Meaning of “controlled waters”

- (1) In this Law, unless otherwise provided, “controlled waters” means –
- (a) the territorial sea adjacent to Jersey;
 - (b) coastal waters, being waters that are within the area that extends landward, from the baselines from which the breadth of the territorial sea is measured, as far as the limit of the highest tide;
 - (c) inland waters, being the waters of lakes, marshlands, ponds, reservoirs, streams, surface water sewers, surface water drains and wetlands (whether in any such case they are natural or artificial, or above or below the ground), and not being coastal waters; and
 - (d) groundwater, being water that is below the surface of the ground, in the saturation zone and in direct contact with the ground or with the subsoil.⁴
- (2) “Controlled waters” does not mean –

- (a) lawful foul sewers;
 - (b) drains that drain into lawful foul sewers; or
 - (c) waters that are within mains or other pipes owned or used by the Jersey New Waterworks Company Limited, having been treated for the purposes of supply.
- (3) “Controlled waters” does not mean any artificial inland waters in respect of which each of the following conditions is fulfilled, namely –
 - (a) that they are constructed so that water does not pass between them and controlled waters;
 - (b) that they are not owned by the Company; and
 - (c) that they are not used by the Company,but this paragraph is subject to Article 3.
- (4) This Law also applies to –
 - (a) the foreshore, being the land that lies between the limits of the highest and lowest tides; and
 - (b) the bottoms, beds and channels of controlled waters that are inland waters, whether or not they are for the time being dry,as it applies to controlled waters.

3 Extension of controlled waters

- (1) The States may by Regulations declare that any artificial inland waters described in Article 2(3) shall be controlled waters for the purposes of this Law.
- (2) The Regulations may provide that those waters shall be controlled waters –
 - (a) for the purposes of the whole of this Law; or
 - (b) for the purposes of such provisions of this Law as are specified in the Regulations.

4 Meaning of “pollution”

- (1) In this Law, “pollution” includes the introduction directly or indirectly into controlled waters of any substance, or energy, where its introduction results or is likely to result in –
 - (a) a hazard to human health or water supplies;
 - (b) harm to any living resource or aquatic ecosystem;
 - (c) damage to any amenity; or
 - (d) interference with any legitimate use of controlled waters,and whether or not its introduction is or would be the only contributing factor to that hazard, harm, damage or interference.⁵

- (2) However, “pollution” does not include a discharge by the Minister or by a person acting on his or her behalf, for the purposes of the exercise of a regulatory power or the performing of a regulatory duty under this Law.⁶

PART 2

ADMINISTRATION

5 General objectives of Minister

- (1) In carrying out his or her functions under this Law, the Minister shall have as the Minister’s general objectives the maintenance and improvement of the quality of water in and around Jersey by the prevention, control, reduction and elimination of the pollution of controlled waters.
- (2) In carrying out his or her functions under this Law, the Minister shall also seek to promote the conservation and enhancement of the natural beauty and amenity of controlled waters, their use for recreational purposes and the conservation of flora and fauna that are dependent on an aquatic environment.

6 Operating considerations

- (1) In carrying out his or her functions under this Law the Minister shall have regard, as far as is reasonably practicable, to the following considerations –
- (a) the best techniques that are for the time being available and the best environmental practice that is for the time being recognized (including, where appropriate, clean technology);
 - (b) a precautionary principle in respect of pollution, by which if there are reasonable grounds for concern that the introduction of anything into controlled waters may cause pollution, the Minister takes preventive measures in anticipation of the risk, whether or not there is conclusive evidence of a causal relationship between such an introduction and its effects; and
 - (c) a cost principle in respect of pollution, by which the costs of preventing, controlling, reducing and eliminating pollution are borne by the persons who cause or knowingly permit it.
- (2) In carrying out his or her functions under this Law, the Minister shall also have regard to the obligations imposed on the Company by the [Water \(Jersey\) Law 1972](#) to supply wholesome water for human consumption and use.

7 Gathering of information

For the purposes of carrying out his or her functions under this Law, the Minister shall –

- (a) monitor controlled waters, and the extent to which this Law is being complied with; and

- (b) undertake continuing scientific and technical research and have regard to the latest developments in technology.

8 Dissemination of information

- (1) The Minister shall publish reports of his or her activities under this Law.
- (2) The Minister shall also make available the information in the Minister's possession that is relevant to the following matters under this Law –
 - (a) reports published under paragraph (1);
 - (b) representations made to the Minister under Article 10(5) or (7);
 - (c) Water Quality Orders;
 - (d) Water Management Areas and Water Management Orders;
 - (e) approved codes of practice;
 - (f) applications for and the grant, variation, transfer, suspension and revocation of discharge permits;
 - (g) information obtained by the Minister in consequence of the requirements of conditions of permits;
 - (h) proposals for and the issue, variation, suspension and revocation of discharge certificates;
 - (i) the results of analyses of samples taken by the Minister;
 - (j) notices served by the Minister in the exercise of the Minister's powers under any of Articles 34, 35, 36 and 37;
 - (k) the results of civil and criminal proceedings instituted under this Law;
 - (l) in respect of certificates of confidentiality, the information to which Article 43 refers; and
 - (m) any other matters relating to the state of controlled waters or activities, or measures, that affect or are likely to affect controlled waters or are undertaken under this Law,but this paragraph is subject to paragraph (6).⁷
- (3) The information shall be available for inspection by any person during reasonable office hours, as soon as possible after it is requested and in any event within 28 days.
- (4) The Minister shall also provide facilities for copying the information.
- (5) The Minister may by Order prescribe reasonable charges for providing information and facilities for copying under this Article.
- (6) The Minister may refuse to make available under this Article any information specified in Schedule 1.
- (7) Where the Minister refuses any request for information under this Article, the Minister shall give the applicant a statement in writing of his or her reasons.
- (8) The States may by Regulations amend Schedule 1.⁸

- (9) This Article is subject to Article 42.

9 Consultation with other persons⁹

- (1) Before proceeding on any proposal to make a Water Quality Order –
- (a) the Minister shall consult the Minister for Health and Social Services and the Company; and
 - (b) the Minister shall also consult such other Ministers, and other persons, as he or she considers appropriate.
- (2) Before proceeding on –
- (a) any proposal to make a Water Management Order;
 - (b) any proposal to approve a code of practice under Article 16; or
 - (c) any proposal to prescribe charges under Article 28,
- the Minister shall consult such other Ministers, and other persons, as he or she considers appropriate.¹⁰

10 Public notice of proposals

- (1) Before the Minister proceeds on any of the following proposals, namely –
- (a) a proposal to make a Water Quality Order;
 - (aa) a proposal to make a Water Management Order;
 - (b) an application for the grant or variation of a discharge permit;
 - (c) a proposal by the Minister of his or her own motion to vary a permit; or
 - (d) a proposal by the Minister for the issue or variation of a discharge certificate,
- the Minister shall comply with the requirements of this Article.¹¹
- (2) The Minister shall publish a notice in the Jersey Gazette –
- (a) stating that a copy of the proposal will be available for inspection free of charge at a place specified in the notice;
 - (b) specifying the period for which it will be available for inspection (being a period of not less than 21 days beginning after the notice is published in the Jersey Gazette);
 - (c) specifying times, during reasonable office hours, when it may be inspected; and
 - (d) explaining that anyone may make representations in writing to the Minister in respect of the proposal at any time before the expiry of the 7 days following the period for inspection,
- and the Minister shall make a copy of the proposal available accordingly for inspection.
- (3) In the case of –

- (a) an application for the grant or variation of a discharge permit; or
 - (b) a proposal by the Minister of his or her own motion to vary a permit, where the Minister is satisfied on reasonable grounds that the introduction to which the proposal relates does not have and is not likely to have any appreciable adverse effect on the aquatic environment, the Minister need not comply with paragraph (2).¹²
- (4) In the case of an application for the grant or variation of a discharge permit, or of a proposal by the Minister of his or her own motion to vary a permit or to issue or vary a discharge certificate –
 - (a) the Minister shall send a copy of the proposal to the Minister for Health and Social Services; and
 - (b) the Minister shall also send copies to such other Ministers, and other persons, as he or she considers appropriate.¹³
- (5) Any person who wishes to make representations in respect of the proposal may do so by delivering them in writing to the Minister –
 - (a) at any time before the expiry of the 7 days following the period for inspection; or
 - (b) within 21 days after receiving under paragraph (4) a copy of the proposal,whichever is the later date.
- (6) If a person who delivers such representations wishes to have the right –
 - (a) under Article 26, to apply to the Court to review a decision made by the Minister in respect of a discharge certificate; or
 - (b) under Article 44, to be given notice of an appeal,the person shall also provide in writing, to the Minister, an address for service in Jersey.
- (7) In the case of an application for the grant or variation of a discharge permit, or of a proposal by the Minister of his or her own motion to vary a permit –
 - (a) the Minister shall serve on the applicant or holder copies of all representations made by other persons under paragraph (5) in respect of the proposal; and
 - (b) the applicant or holder may deliver to the Minister representations in writing in reply, within 14 days after being served.¹⁴
- (8) The Minister –
 - (a) shall not proceed to determine the proposal until the time limits for making representations under this Law have elapsed; and
 - (b) in determining the proposal, shall consider all representations made under this Law in respect of the proposal.
- (9) In this Article, “proposal” includes –
 - (a) the information and any representations supporting the proposal; and

- (b) in the case of a proposal by the Minister of his or her own motion to vary a discharge permit, all written representations made by the holder of the permit under Article 23(2) in respect of the proposal.¹⁵

11 Provision of services

The Minister may by agreement with any other person –

- (a) provide services, facilities and materials to that person for the purposes of this Law; and
- (b) charge for doing so.

PART 3

WATER QUALITY

12 Water Quality Orders

- (1) For the purposes of carrying out his or her functions under this Law, the Minister may by Order (a “Water Quality Order”) –
 - (a) identify and classify controlled waters according to the uses to which they are being lawfully put or may in future be lawfully put and their amenity;
 - (b) set objectives to be achieved in respect of their quality for such uses and amenity; and
 - (c) specify any period of time for which the Order shall have effect.
- (2) In setting objectives, the Minister may specify in a Water Quality Order –
 - (a) standards of quality to be achieved;
 - (b) methods and dates by which the objectives shall be achieved; and
 - (c) monitoring programmes in respect of the objectives.
- (3) In exercising his or her powers under this Article, the Minister shall have regard (as far as they are relevant to the purposes of this Law) to the state of the controlled waters, including –
 - (a) the substances that are present in them and the concentrations of those substances; and
 - (b) substances that are absent from the waters.
- (4) In this Article, “use” includes use for any agricultural purpose, bathing, boating, fishing for pleasure, fishing for profit, any industrial purpose, any other recreational purpose and the supply of water.

13 Compliance with water quality objectives

While a Water Quality Order remains in force in respect of any controlled waters –

- (a) the Minister shall carry out his or her functions under Articles 14 and 16, and Parts 5 and 6, in a manner that ensures as far as is reasonably practicable that the objectives set by the Order are achieved; and
- (b) the Company shall, to the extent that it may do so under the [Water \(Jersey\) Law 1972](#), carry out its functions under that Law in a manner that ensures as far as is reasonably practicable that those objectives are achieved.¹⁶

14 Water Management Orders¹⁷

- (1) The Minister may by an Order known as a “Water Management Order” –
 - (a) designate all or any land in Jersey to be part of one or more geographical areas for the purposes of this Law, to be known as ‘Water Management Areas’; and
 - (b) impose in respect of –
 - (i) a Water Management Area, or
 - (ii) any part of such an Area,restrictions and requirements on business activities or operations for the prevention, control, reduction or elimination of pollution in controlled waters or of the risk of pollution in controlled waters.
- (2) However, the restrictions and requirements that the Minister may impose in a Water Management Order must consist of or relate to any of the following –
 - (a) the importation, sale or purchase of fertilizers;
 - (b) the storage of fertilizers;
 - (c) measures concerned with or that implement the planning, and management of the use of fertilizers;
 - (d) the calibration of equipment to be used for the application of fertilizers;
 - (e) the application or use of fertilizers on land, including the permitted concentration of fertilizers, the times of the year when fertilizers may be used and any geographical, terrestrial or meteorological conditions affecting their use;
 - (f) the establishing of protection zones in the vicinity of controlled waters where the application or use of fertilizers may be restricted or prohibited;
 - (g) soil management measures;
 - (h) the training of individuals involved in any relevant matter;
 - (i) the keeping of adequate records to be available for inspection by the Minister in relation to any relevant matter; or
 - (j) the making of returns to the Minister in respect of any relevant matter.

- (3) The States may by Regulations amend paragraph (2) so as to amend any matter to which a restriction or requirement must consist of or relate to.
- (4) In this Article –
 - “fertilizer” means a chemical or natural substance that is added to soil to improve its productivity;
 - “relevant matter” means a matter mentioned in paragraph (2)(a) to (g).

15 Contravention of Water Management Orders¹⁸

- (1) A person who intentionally contravenes a Water Management Order is guilty of an offence and liable to imprisonment for 2 years and to a fine.
- (2) Where a person is charged with an offence under paragraph (1) it shall be a defence for the person to prove that he or she took all reasonable precautions and exercised due diligence to avoid the commission of the offence.
- (3) For the purposes of paragraph (2) –
 - (a) the fact that a person conforms in a material way to an approved code of practice is admissible as evidence that the person is conducting himself or herself reasonably and with due diligence in that way; and
 - (b) the fact that a person fails in a material way to conform to an approved code of practice is admissible as evidence that the person is not conducting himself or herself reasonably and with due diligence in that way.

16 Approved codes of practice

- (1) The Minister may by Order approve any code of practice for the purposes of this Law.
- (2) In exercising his or her powers under paragraph (1), the Minister shall have regard to the desirability of –
 - (a) the provision of practical guidance to persons engaged in activities (including, in particular, agricultural and related activities) that may affect the quality of controlled waters; and
 - (b) the promotion and encouragement of good practices by such persons for preventing, controlling, reducing or eliminating the pollution of controlled waters.

PART 4

POLLUTION OFFENCES

17 Pollution offences¹⁹

- (1) Any person who causes or knowingly permits the pollution of any controlled waters shall be guilty of an offence and –
 - (a) if the person is a Minister (whether or not he or she is the Minister for the Environment), liable to a fine; or
 - (b) in any other case, liable to imprisonment for a term not exceeding 2 years or to a fine, or both.²⁰
- (2) Where –
 - (a) the Minister for Infrastructure in his or her capacity as the sewerage undertaker for Jersey receives anything into a public sewer,
 - (b) it passes subsequently from any public sewer into controlled waters, and
 - (c) its introduction into controlled waters constitutes pollution,he or she shall be guilty of an offence and liable to a fine.²¹
- (3) Any person who, being the holder of a discharge permit, contravenes any condition of the permit shall be guilty of an offence and –
 - (a) if the person is a Minister, liable to a fine; or
 - (b) in any other case, liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) Where the Minister contravenes any condition of a discharge certificate, he or she shall be guilty of an offence and liable to a fine.

18 Statutory defences

- (1) Where a person is charged with an offence under Article 17(1) or (2), it shall be a defence to prove that in doing any act or making any omission that is a necessary ingredient of the offence the person was acting in accordance with a discharge permit or discharge certificate.
- (2) Where a person (other than the Minister for Infrastructure) is charged with an offence under Article 17(1) by reason only of the introduction into a public sewer of anything that passes subsequently into controlled waters, it shall be a defence to prove that the Minister for Infrastructure was bound (either unconditionally or subject to conditions that were observed) to receive it into the sewer.²²
- (3) Where the Minister for Infrastructure is charged with an offence under Article 17(2) or (3) by reason of the introduction of anything into controlled waters, it shall be a defence to prove –
 - (a) that the occurrence was attributable to the fact that its prior introduction into a public sewer was caused or permitted by a person

who was not acting under the authority of the Minister for Infrastructure; and

- (b) that the Minister for Infrastructure either was not bound to receive it into the sewer, or was only bound to do so on conditions that were not observed.²³
- (4) Where a person is charged with an offence under either of Article 17(1) and (2), it shall be a defence to prove –
- (a) that the person took all reasonable precautions and exercised due diligence to avoid the commission of the offence; and
 - (b) that the person took all steps that were reasonably practicable for minimizing the extent of pollution of controlled waters,
- and, if the person is not the Minister, that the person gave full details of the occurrence to the Minister, or ensured that they were given to the Minister, as soon as was reasonably practicable.²⁴
- (5) For the purposes of paragraph (4) –
- (a) the fact that a person conforms in a material way to an approved code of practice shall be admissible as evidence that the person is conducting himself or herself reasonably and with due diligence in that way; and
 - (b) the fact that a person fails in a material way to conform to an approved code of practice shall be admissible as evidence that the person is not conducting himself or herself reasonably and with due diligence in that way.
- (6) Where a person is charged with an offence under any of Article 17(1), (2), (3) and (4) by reason of the introduction of anything into controlled waters, it shall be a defence to prove –
- (a) that it was introduced in consequence of a decision to do so in an emergency that arose in circumstances beyond the person's control;
 - (b) that the decision was reasonable; and
 - (c) that the person took all steps that were reasonably practicable for minimizing the extent of pollution of controlled waters,
- and, if the person is not the Minister, that the person gave full details of the occurrence to the Minister, or ensured that they were given to the Minister, as soon as was reasonably practicable.²⁵

PART 5

AUTHORIZED DISCHARGES

19 High risk substances

- (1) In deciding under this Part whether or not to grant, vary, transfer, suspend or revoke a discharge permit, or to issue, vary, suspend or revoke a discharge certificate, the Minister shall have particular regard in every

relevant case to the risk of pollution by any substance of a kind described in Schedule 2.

- (2) The Minister may by Order amend Schedule 2.

20 Applications in respect of discharge permits

- (1) Every application for the grant, variation, transfer or revocation of a discharge permit shall be in writing, with such information (including maps and diagrams) as may be prescribed or as the Minister may reasonably require in any case.
- (2) An application for the transfer of a discharge permit shall include the written consent of the proposed transferee to the transferee becoming the holder of the permit.

21 Discharge permits

- (1) If any person other than the Minister wishes to make an introduction into controlled waters that would otherwise be in contravention of Article 17(1), the person shall first apply to the Minister for a discharge permit for that purpose.
- (2) The Minister, on considering an application for a discharge permit, shall –
- (a) grant the application, unconditionally or on such conditions as the Minister may specify in his or her decision; or
 - (b) refuse the application.
- (3) There shall be a right of appeal, in accordance with Article 44, against the decision of the Minister.

22 Conditions of discharge permits

Without prejudice to the generality of the conditions that the Minister may impose in granting a discharge permit, or in subsequently varying the permit, they may include all or any of the following matters –

- (a) the place at which anything may be introduced into controlled waters;
- (b) the design or construction of any outlet to be used for that purpose;
- (c) the nature, origin, volume, rate, composition, properties, radioactivity, temperature or other qualities of anything to be introduced, or the frequency with which or the times during which it may be introduced;
- (d) any treatment or process to be applied, by the holder of the permit or any other person, to minimize the pollution of controlled waters (including the provision or maintenance by the holder or any other person of approved treatment facilities for the purpose);
- (e) the provision or maintenance of approved facilities (including boreholes, inspection chambers, manholes or observation wells), by the holder or any other person, for taking samples of the thing introduced or of controlled waters;

- (f) the provision or maintenance of approved meters or other approved apparatus, by the holder or any other person, for measuring, assessing, determining or otherwise recording the nature, origin, volume, rate, composition, properties, radioactivity, temperature or other qualities of the thing introduced or of controlled waters;
- (g) the keeping of records, the making of returns or the giving of other information, by the holder or any other person to the Minister, in respect of the introduction or its consequences; or
- (h) time limits for complying with any conditions.

23 Variation and revocation of discharge permits

- (1) The Minister may, on the application of the holder of a discharge permit or of his or her own motion, vary or revoke the permit.²⁶
- (2) Where the Minister proposes of his or her own motion to vary or revoke a discharge permit –
 - (a) the Minister shall serve a notice in writing on the holder, specifying the proposal and informing the holder that the holder may make representations in writing to the Minister in respect of the proposal within 21 days after the notice is served on the holder; and
 - (b) in determining whether or not to proceed with the proposal, the Minister shall consider all representations so made,before proceeding on the proposal and complying (where necessary) with Article 10.²⁷
- (3) A variation or revocation shall not take effect before it is served on the holder.
- (4) A variation or revocation shall take effect –
 - (a) when it is served on the holder, if the Minister does not specify a later date; or
 - (b) where the Minister does specify a later date, on that date.
- (5) However, where a variation imposes any restriction, obligation or requirement on the holder, the variation shall take effect on a date to be specified by the Minister, being not sooner than 6 months after it is served on the holder.
- (6) The Minister need not comply with paragraph (5) if –
 - (a) there are exceptional circumstances; and
 - (b) the Minister specifies those circumstances in his or her decision.
- (7) There shall be a right of appeal, in accordance with Article 44, against the decision of the Minister.²⁸

24 Suspension of discharge permits

- (1) Where it appears to the Minister on reasonable grounds that it is necessary or expedient to do so because of an emergency –

- (a) the Minister may by notice in writing served on the holder of a discharge permit suspend the permit for any period, not exceeding 14 days, that is specified in the notice; and
 - (b) the Minister may in the same manner extend the suspension of the permit for any period not exceeding 14 days.
- (2) There shall be a right of appeal, in accordance with Article 44, against the decision of the Minister.

25 Transfer of discharge permits

- (1) With the written approval of the Minister on an application made in accordance with Article 20, the holder of a discharge permit may transfer it to any other person.
- (2) With effect from the date of approval, or from such later date as the Minister may specify in his or her approval –
 - (a) the transferor shall cease to be the holder of the discharge permit; and
 - (b) the transferee shall be the holder.
- (3) There shall be a right of appeal, in accordance with Article 44, against the decision of the Minister.²⁹

26 Discharge certificates

- (1) If the Minister wishes to make an introduction into controlled waters that would otherwise be in contravention of Article 17(1), the Minister shall first issue a discharge certificate for that purpose.³⁰
- (2) The Minister shall specify in the discharge certificate the conditions (if any) on which the introduction will be made.
- (3) The Minister may vary a discharge certificate.
- (4) A discharge certificate or its variation shall take effect from a date to be specified in the certificate by the Minister (being not sooner than 21 days after the Minister complies with Article 27 in respect of his or her decision).
- (5) Where the Minister issues or varies a discharge certificate, any person who –
 - (a) has made representations under Article 10(5) in respect of the proposal to do so; and
 - (b) has provided an address for service in Jersey,may apply to the Court to review the decision.
- (6) An application under paragraph (5) shall be made –
 - (a) within 21 days after the applicant is served with a written copy of the Minister's decision (or within such further time as the Court may allow); and
 - (b) on notice to the Minister.

- (7) Where the Minister issues or varies a discharge certificate, the Attorney General may apply to the Court at any time, on notice to the Minister, to review the decision.
- (8) Rules of Court may provide for the manner in which applications for review under this Article shall be brought, heard and determined.
- (9) Unless the Court so orders, the lodging of an application for review under this Article shall not operate to stay the effect of a decision pending the determination of the application.
- (10) On hearing an application for review, the Court –
 - (a) may in its own judgment confirm, reverse or vary the decision of the Minister; and
 - (b) may make such order as to the costs of the review as it thinks fit.
- (11) The Attorney General shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under this Article.³¹
- (12) The Minister may at any time suspend or revoke a discharge certificate.

27 Notice of decisions

- (1) Within 14 days after the Minister –
 - (a) grants or refuses an application for a discharge permit, or an application to vary, transfer or revoke a permit;
 - (b) of his or her own motion varies, suspends or revokes a permit; or
 - (c) issues, varies, suspends or revokes a discharge certificate,the Minister shall serve a written copy of his or her decision on each of the persons specified in paragraph (2).³²
- (2) The persons to whom paragraph (1) refers are –
 - (a) the applicant or the holder of the discharge permit, as the case may be;
 - (b) the Minister for Health and Social Services;
 - (c) every person who has made representations under Article 10(5) in respect of the matter, and has provided an address for service in Jersey; and
 - (d) in the case of an application to transfer a permit, the transferee proposed in the application.³³
- (3) This Article does not require the Minister, where the Minister has suspended a discharge permit or extended the period of its suspension under Article 24, to give to the holder additional notice under this Article.

28 Charges for discharge permits

- (1) The Minister may prescribe –
 - (a) charges that shall be payable to the Minister by applicants, holders of discharge permits, and proposed transferees in respect of

- applications for the grant, variation, transfer and revocation of permits; and
- (b) charges that shall be payable to the Minister periodically, by holders of permits, while their permits remain in force.
- (2) In prescribing such charges, the Minister shall have regard to the amounts that are needed to meet the Minister's expenditure in carrying out his or her functions under this Law in respect of discharge permits (including, but without limiting the generality of this paragraph, the consideration of applications relating to permits, the granting of permits, the monitoring of discharges by holders of permits and the variation, suspension and revocation of permits).³⁴
- (3) In prescribing charges in respect of discharge permits, the Minister may impose –
- (a) different charges in respect of different parts of any periods during which permits remain in effect; and
- (b) different charges according to the kinds or scale of activity, the kinds or amounts of any substances, the localities or circumstances and the number of different activities to which permits relate.
- (4) Where any charge is prescribed, the Minister may refuse to do anything for which it is payable until it is paid (without prejudice to the right of the Minister to recover the money).

PART 6

ENFORCEMENT

29 Appointment of designated officers

The Minister may in writing appoint as a designated officer for the purposes of this Law any person who is employed in the service of the States.

30 Proof of authority

- (1) A designated officer who is exercising his or her powers under this Law shall produce on request evidence of his or her authority to do so.
- (2) A designated officer shall also state on request –
- (a) his or her name; and
- (b) the power that he or she proposes to exercise.

31 Persons who may accompany designated officers

- (1) In exercising his or her powers under this Law (including any powers conferred on the officer by a warrant granted under Article 32(4)), a designated officer may take with him or her –
- (a) such other persons; and

- (b) such vehicles, equipment and materials,
as are reasonably necessary or expedient for the purpose.
- (2) A person whom a designated officer takes with him or her under paragraph (1) may perform any of the designated officer's functions under this Law, but only under the latter's supervision.

32 General powers of entry and investigation

- (1) A power conferred on a designated officer by paragraph (3) shall only be exercisable –
 - (a) where there are reasonable grounds for doing so;
 - (b) in a manner that is proportionate and otherwise reasonable; and
 - (c) at a reasonable hour,and, if it is to be exercised in respect of residential land, where the designated officer has given not less than 48 hours' notice in writing to the owner or occupier.
- (2) However, the requirements in paragraph (1) as to the time at which the power may be exercised and (in the case of residential land) as to the notice that must be given before it may be exercised do not apply in an emergency.
- (3) A designated officer may do all or any of the following things in respect of any land, vehicle, vessel, hovercraft or aircraft, for the purposes of carrying this Law into effect –
 - (a) enter, board, inspect or search it;
 - (b) take or carry out on or in it any measurements, surveys, tests, investigations or photographs;
 - (c) in the case of any land, carry out or dig on or in it any experimental borings, trial pits or trial holes;
 - (d) install, maintain or operate on or in it any monitoring equipment or other apparatus;
 - (e) take or remove from it, for analysis, samples of any water, other substances, articles or other things found there; or
 - (f) take or remove any water, other substances, articles or other things found there, for the purposes of evidence in any civil or criminal proceedings under this Law.
- (4) Where the Bailiff or a Jurat is satisfied on sworn information –
 - (a) that there are reasonable grounds for the exercise of any power under paragraph (3); and
 - (b) that in the circumstances of the case it is desirable to grant a warrant under this paragraph,

the Bailiff or Jurat may grant a warrant to a designated officer authorizing the officer at any time to enter or board any land, vehicle, vessel, hovercraft or aircraft specified in the warrant and there exercise any other powers

under paragraph (3), and in doing so to use such reasonable force as may be necessary.

- (5) A warrant shall continue in force until –
 - (a) the purposes for which the warrant is granted have been fulfilled; or
 - (b) the expiry of the period of one month following its grant,whichever event occurs first.
- (6) Where a designated officer enters any land, vehicle, vessel, hovercraft or aircraft in the exercise of his or her powers under this Article, and it is for the time being unoccupied or unmanned, he or she shall leave it secured as effectually as he or she found it.
- (7) Where a designated officer has exercised any powers under this Article in respect of any land, vehicle, vessel, hovercraft or aircraft, he or she shall upon request inform the owner, occupier, driver, master, commander, or person in charge (as the case may be) in writing as soon as reasonably practicable and in any event within 21 days –
 - (a) of the powers the designated officer has so exercised; and
 - (b) of everything the designated officer has taken or removed in the course of exercising those powers.³⁵
- (8) Any person who without reasonable excuse –
 - (a) intentionally obstructs a designated officer who is exercising or seeking to exercise any power under this Article; or
 - (b) intentionally obstructs any person who is lawfully accompanying a designated officer, or performing any function under the designated officer's supervision, under Article 31,

shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

33 Co-operation by owners and others

- (1) A designated officer who is exercising or seeking to exercise his or her powers under Article 32 on or in any land, vehicle, vessel, hovercraft or aircraft may require any person present who is or appears to the officer to be –
 - (a) the owner, occupier, driver, master, commander or person in charge; or
 - (b) some other responsible person,to render such assistance as the designated officer may reasonably require of the person in order that the designated officer can carry out more effectively the purposes for which he or she is exercising his or her powers.
- (2) Paragraph (1) does not empower a designated officer to require a person to do anything that the Minister, under any of Articles 34, 35, 36 and 37, may require a person to do.
- (3) Any person who intentionally and without reasonable excuse contravenes a requirement made of the person under this Article shall be guilty of an

offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

34 Access to documents and records relating to water quality

- (1) Where it appears to the Minister on reasonable grounds that a person has in his or her custody or control a document or record that is relevant to the purposes of this Law, the Minister may require the person to allow the Minister to inspect and copy it.
- (2) If it is reasonably necessary or expedient to do so, the Minister or a designated officer may take the document or record away temporarily, to inspect or copy it.³⁶
- (3) There shall be a right of appeal, in accordance with Article 44, against the making of a requirement by the Minister under this Article.

35 Provision of information about potential pollution

- (1) Where it appears to the Minister on reasonable grounds that a person has anything in his or her custody or control in circumstances in which it may pollute controlled waters, the Minister may require the person to do all or any of the following things –
 - (a) to deliver to the Minister in writing details of the thing or the circumstances in which it is in the person's custody or control (including details as to its nature, origin, volume, rate, composition, properties, radioactivity, temperature or other qualities or, where appropriate, any methods of transfer used by the person in respect of it);
 - (b) to deliver to the Minister in writing such other information as the Minister may reasonably require in order to determine the extent of that risk of pollution, or how best to prevent such pollution or to deal with the consequences of any pollution that does ensue; or
 - (c) to keep proper records for the purposes of sub-paragraph (a) or (b).
- (2) There shall be a right of appeal, in accordance with Article 44, against the making of a requirement by the Minister under this Article.

36 Control of potential pollution

- (1) Where it appears to the Minister on reasonable grounds that a person has anything in his or her custody or control in circumstances in which it may pollute controlled waters, the Minister may require the person to do all or any of the following things –
 - (a) to take reasonable precautions or undertake appropriate works or other measures (including monitoring); or
 - (b) to comply with reasonable conditions, while the thing is in the person's custody or control,for the prevention of such pollution, or in anticipation of the control, reduction or elimination of such pollution.

- (2) Where it appears to the Minister on reasonable grounds that a person has anything in his or her custody or control in circumstances in which it may pollute controlled waters, and –
 - (a) that it is not reasonably practicable by any other means to take adequate precautions against the risk of pollution, or to deal adequately with the consequences of any pollution that does ensue; and
 - (b) that the nature of the risk and the consequences of pollution are sufficiently serious to justify the Minister in doing so,the Minister may require the person to dispose of the thing.
- (3) There shall be a right of appeal, in accordance with Article 44, against the making of a requirement by the Minister under this Article.

37 Remedial action by polluters

- (1) Where any person has caused or knowingly permitted any controlled waters to be polluted, the Minister may require the person to do all or any of the following things –
 - (a) to eliminate, reduce or control the pollution;
 - (b) to remedy or mitigate its effects; or
 - (c) to restore the waters (or any flora or fauna that are dependent on the aquatic environment of those waters) to their state immediately before they were so polluted,as far as it is reasonably practicable for the person to do so.
- (2) There shall be a right of appeal, in accordance with Article 44, against the making of a requirement by the Minister under this Article.

38 Manner of exercising powers

- (1) A requirement by the Minister in the exercise of any power under any of Articles 34, 35, 36 and 37 shall be made by a notice in writing served on the person to whom it relates.
- (2) The notice –
 - (a) shall in every case specify the document or record to be inspected and copied, the information to be delivered, the things to be done or the conditions to be complied with, as the case may be;
 - (b) may, in the case of a requirement under Article 36 or 37, specify the means by which the person is to comply with it; and
 - (c) shall in every case specify a period of time (being a reasonable period in the circumstances) within which the notice is to be complied with.
- (3) No power conferred on the Minister by any of Articles 35, 36 and 37 shall be exercisable in respect of any act or omission by a person for which he or she has a defence under Article 18(1).

- (4) Any person who intentionally and without reasonable excuse contravenes a notice served on the person by the Minister in the exercise of a power under Article 34 shall be guilty of an offence and liable to a fine.³⁷
- (5) Any person who intentionally and without reasonable excuse contravenes a notice served on the person by the Minister in the exercise of a power under any of Articles 35, 36 and 37 shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

39 Remedial action by Minister

- (1) Where –
 - (a) a person on whom a notice is served in the exercise of a power under Article 36 or 37 contravenes the notice;
 - (b) it appears to the Minister after reasonable enquiry, in any case in which there are grounds for serving such a notice, that the person on whom it is to be served cannot be found; or
 - (c) it appears reasonably to the Minister, in any case in which there are grounds for serving such a notice, that the situation is one of urgency that warrants action under this Article,the Minister may do all or any of the things that he or she has so required or could have so required the person to do.
- (2) Where the Minister acts under paragraph (1), the Minister may recover the Minister's reasonable expenses of doing so as a civil debt in any court of competent jurisdiction from any person on whom the notice was to be served.
- (3) For the purposes of this Article, the Minister's reasonable expenses of acting under paragraph (1) shall include any expenses incurred by the Minister in investigating and establishing –
 - (a) the source and extent of any potential pollution or actual pollution to which the matter relates; and
 - (b) the identification of any person on whom a notice may be served under Article 36 or 37 in respect of the matter.³⁸

40 Injunctions

- (1) The Minister or a designated officer may apply to the Court for an injunction to enforce compliance by any person with any requirement of this Law or made under this Law, or to restrain any person from contravening any provision of this Law.
- (2) Paragraph (1) does not relieve a person from any criminal liability that the person may incur by reason of any act or omission, or limit any other remedies of the Minister or a designated officer in respect of the person's acts or omissions.

PART 7

GENERAL

41 Application for protection of trade secret

- (1) A person specified in paragraph (2) may apply to the Minister in accordance with this Article for a certificate of confidentiality in respect of any information described in that paragraph, on the ground that its disclosure will reveal a trade secret.
- (2) The persons who may apply for certificates of confidentiality, and the information in respect of which they may so apply, are –
 - (a) an applicant for the grant, variation, transfer or revocation of a discharge permit, in respect of any information that he or she is required or wishes to give to the Minister in support of the application;
 - (b) any person, in respect of any information that he or she wishes to give under any of Articles 22, 34, 35, and 36;
 - (c) any person, in respect of any information that he or she is required to give under any of those Articles; and
 - (d) any person, in respect of any information relating to him or her, or to any business (including any research or experiment) carried on by him or her, that the Minister or a designated officer may obtain directly or indirectly in the course of the exercise of any power under Article 32 or 39.
- (3) An application under this Article shall be made in writing.
- (4) However, in a case to which any of paragraph (2)(b), (c) and (d) refers, the application may in the first instance be made –
 - (a) orally; and
 - (b) either to the person who has required or obtained the information, or to the Minister directly,

but in that event, on the expiry of the period of 14 days following the day on which it was made, it shall cease to be an application made in accordance with this Article unless the applicant has put it in writing and delivered the written application to the Minister.
- (5) Where the Minister is satisfied that the disclosure of the information will reveal a trade secret, the Minister shall grant a certificate of confidentiality in respect of that information.
- (6) Within 14 days after determining an application for a certificate of confidentiality, the Minister shall serve on the applicant a written copy of his or her decision.
- (7) There shall be a right of appeal, in accordance with Article 44, against the decision of the Minister.

42 Information that is protected

- (1) While –
 - (a) an application for a certificate of confidentiality, having been made in accordance with Article 41, has not been determined by the Minister;
 - (b) any time allowed for appealing to the Court against the decision of the Minister in respect of the application has not expired, and the Court has not dismissed such an appeal;
 - (c) any time allowed for a further appeal has not expired, and the court concerned has not dismissed such an appeal; or
 - (d) any appeal, having been lodged, has not been determined,the information in respect of which the application for a certificate of confidentiality was made shall be confidential, unless it is information described in Article 43.
- (2) Where a certificate of confidentiality is granted (whether by the Minister, or on appeal), the information in respect of which it is granted shall be confidential, unless it is information described in Article 43.
- (3) Any person who knowingly or recklessly –
 - (a) discloses to any other person any information that is confidential by virtue of paragraph (1) or (2); or
 - (b) uses that information otherwise than for the purposes of this Law,shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.
- (4) Paragraph (3) does not apply to any disclosure –
 - (a) by the applicant for the certificate of confidentiality, or with his or her consent;
 - (b) to the Minister or any other Minister or to any public officer or to any other person specified in Article 31, for the purposes of this Law; or
 - (c) to the Court or to any party in any civil or criminal proceedings under this Law, in private and for the purposes of those proceedings.

43 Information that is not protected

Article 42 does not apply to the following information –

- (a) the name and address of the applicant for the certificate of confidentiality;
- (b) the fact that the applicant has applied for or been granted such a certificate or that an appeal to the Court, or any further appeal, is pending in respect of his or her application for it; and
- (c) the site of the introduction or proposed introduction, into controlled waters, of anything to which the confidential information relates.

44 Appeals

- (1) The following persons shall have a right of appeal to the Court under this Law –
 - (a) an applicant for a discharge permit or for its variation or transfer, against the refusal of the application by the Minister;
 - (b) an applicant for a permit, against any condition imposed by the Minister in granting the application;
 - (c) the holder of a permit, against the variation or revocation of the permit, or against the suspension of the permit under Article 24, or the extending of the suspension of the permit under that Article;
 - (d) a person of whom a requirement is made under any of Articles 34, 35, 36 and 37, against the making of the requirement; and
 - (e) an applicant for the grant of a certificate of confidentiality, against the refusal of the application in whole or in part.³⁹
- (2) An appeal shall be brought within 21 days after the appellant is served with a written copy of the decision or the notice in writing of the requirement (as the case may be), or within such further time as the Court may allow.
- (3) In any matter to which Article 10(5) applies, the Minister shall give notice in writing of the appeal to every person who has made representations under that paragraph and has provided an address for service in Jersey, and that person may appear and be heard.
- (4) Unless the Court so orders, the lodging of an appeal shall not operate to stay the effect of a decision or requirement pending the determination of the appeal.
- (5) On hearing the appeal, the Court –
 - (a) may confirm, reverse or vary the decision or requirement against which the appeal is brought; and
 - (b) may make such order as to the costs of the appeal as it thinks fit.
- (6) The appellant shall have a right of appeal to the Court of Appeal against a decision of the Royal Court under this Article.⁴⁰

45 Compensation

- (1) Where –
 - (a) any person with a proprietary interest in any land suffers any loss by way of reduction in the value of the person's interest or by way of the disturbance of business carried on by the person on that land, in consequence of a Water Management Order; or;
 - (b) any person suffers any loss or damage in consequence of the exercise of any power under Article 32,the Minister shall be liable to pay compensation to the person for that loss or damage.⁴¹
- (2) Compensation shall not be payable under this Article –

- (a) to the extent that the loss or damage is attributable to the claimant's fault; or
 - (b) to the extent that compensation for the loss or damage is payable under any other enactment or rule of law,but this Article does not limit any right to compensation under any other enactment or rule of law.
- (3) For the purposes of a claim for compensation under this Article –
 - (a) conforming to an approved code of practice is not an act or omission involving fault; and
 - (b) where a person claims compensation in respect of any loss or damage, the person's failure in a material way to conform to an approved code of practice within a reasonable time after the code was approved under Article 16(1) shall be admissible as evidence that the loss or damage is attributable to the person's fault.
- (4) Any dispute as to the entitlement of any person to compensation under this Article, or as to the amount of compensation –
 - (a) shall be referred to and determined by the arbitration of a single arbitrator appointed by agreement between the Minister and the claimant; or
 - (b) in default of such agreement, shall be referred to and determined by the Board of Arbitrators appointed in accordance with Articles 8 and 9 of the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#).
- (5) In the determination of a dispute under paragraph (4) of this Article –
 - (a) Articles 10 and 20 of the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#) shall apply; and
 - (b) in their application to this Law, the references in those provisions to the acquisition of land shall be read as references to the imposition of a restriction or requirement in respect of land by a Water Management Order or, as the case may be, to the exercise of a power under Article 32 of this Law.⁴²
- (6) In the determination of a dispute under paragraph (4) of this Article –
 - (a) Articles 12, 13, 14, 16 and 17 of that Law shall also apply; and
 - (b) in the application of those Articles (other than Article 13) to this Law, the references in them to the Board of Arbitrators shall be read as including a reference to a single arbitrator appointed by agreement under paragraph (4) of this Article.
- (7) Interest, at the rate specified in Article 11(4) of the [Compulsory Purchase of Land \(Procedure\) \(Jersey\) Law 1961](#) and calculated in accordance with that paragraph from the date on which the loss or damage occurred until the date of payment, shall be added to the amount of any compensation assessed under this Article.

46 Interference with apparatus

- (1) Any person who maliciously or dishonestly interferes or tampers with any meter or other apparatus installed on or in any land, vehicle, vessel, hovercraft or aircraft –
 - (a) by the Minister, for the purposes of this Law; or
 - (b) by any other person, in accordance with a requirement of or under this Law,shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.⁴³
- (2) This Article is subject to Article 30(12) of the [Road Works and Events \(Jersey\) Law 2016](#).⁴⁴

47 False information

Any person who –

- (a) in support of an application under any of Articles 21, 23, 25 and 41 or under Schedule 3; or
- (b) on being required under a condition of a discharge permit or discharge certificate, or under Article 35, to give or deliver any information to the Minister,

knowingly or recklessly makes a statement that is false or misleading in a material particular shall be guilty of an offence and liable to imprisonment for a term not exceeding 2 years or to a fine, or both.

48 Criminal liability

- (1) Any person who aids, abets, counsels or procures the commission of an offence under this Law shall also be guilty of the offence and liable in the same manner as a principal offender to the penalty provided for that offence.
- (2) Where an offence under this Law committed by a body corporate is proved to have been committed with the consent or connivance of or to be attributable to any neglect on the part of –
 - (a) a person who is a director, manager, secretary or other similar officer of the body corporate; or
 - (b) any person purporting to act in any such capacity,the person shall also be guilty of the offence and liable in the same manner as the body corporate to the penalty provided for that offence.
- (3) Where the affairs of a body corporate are managed by its members, paragraph (2) shall apply in relation to acts and defaults of a member in connection with his or her functions of management as if the member were a director of the body corporate.

49 Evidence

- (1) Where in any civil or criminal proceedings under this Law, evidence is adduced of information recorded by a meter or other apparatus that for the purposes of this Law is approved or used by the Minister, it shall be presumed until the contrary is proved that the meter or apparatus has at all material times recorded information accurately.
- (2) In any civil or criminal proceedings under this Law, information that is provided by or obtained from any person under any condition of a discharge permit or discharge certificate shall be admissible in evidence against that person.

50 Limitation of liability of Minister

- (1) Neither the Minister nor any officer nor any of the Minister's servants or agents shall incur any civil or criminal liability –
 - (a) in respect of the grant, variation, transfer, suspension or revocation of a discharge permit by the Minister; or
 - (b) in respect of the introduction of anything into controlled waters in accordance with a permit,unless it is proved that he or she was acting in bad faith.⁴⁵
- (2) In this Article “officer” means an officer in an administration of the States for which the Minister is assigned responsibility.

51 Service of documents

- (1) A document may be served under this Law in any of the following ways –
 - (a) on an individual, by delivering it to him or her personally or by leaving it at his or her proper address or by sending it by recorded delivery post to him or her at that address;
 - (b) on a body corporate, by serving it in accordance with sub-paragraph (a) on the secretary or clerk of that body;
 - (c) on a partnership, by serving it in accordance with sub-paragraph (a) on a partner or a person having the control or management of the partnership business; or
 - (d) on an unincorporated body or unincorporated association of persons, by serving it in accordance with sub-paragraph (a) on any person having the control or management of its affairs.
- (2) For the purposes of this Article, and of Article 7 of the [Interpretation \(Jersey\) Law 1954](#) in its application to this Article, the proper address of any person on whom a document is to be served is the person's last known address, except that –
 - (a) in the case of service on a body corporate or its secretary or clerk, it is the address of the registered or principal office of the body; or

- (b) in the case of service on a partnership or a partner or a person having the control or management of a partnership business, it is the address of the principal office of the partnership.
- (3) In the case of a body incorporated outside Jersey or of a partnership carrying on business outside Jersey, its principal office in Jersey is its principal office for the purposes of this Article.
- (4) Where a person who is to be served under this Law with any document has specified an address in Jersey other than the person's proper address (as determined in accordance with paragraph (2)) as the one at which the person or someone on his or her behalf will accept service of documents, that address may be treated as the proper address for the purposes of this Article.
- (5) Where a document is to be served under this Law –
 - (a) on the owner or person in charge of any land, vehicle, vessel, hovercraft or aircraft; or
 - (b) on the occupier of any land, the driver of a vehicle, the master of a vessel or hovercraft or the commander of an aircraft,and after reasonable enquiry he or she cannot be found and his or her name and address cannot be ascertained, and the document relates to the land, vehicle, vessel, hovercraft or aircraft, the document may be served by delivering it personally to some other responsible person who is or appears to be resident or employed on or in it, or by affixing it (or a copy) conspicuously to any part of the land, vehicle, vessel, hovercraft or aircraft.
- (6) This Article does not apply to any document for which provision for service is made by Rules of Court, but it does not prevent service by any other mode that is permitted by any other enactment or rule of law.

52 Subordinate legislation

- (1) The Minister may make Orders relating to all or any of the following matters –
 - (a) providing for any matters that are to be or may be prescribed under any other provisions of this Law;
 - (b) prescribing forms of application for the grant, variation, transfer or revocation of discharge permits, or information to be provided in support of such applications;
 - (c) prescribing standard conditions in permits;
 - (d) prescribing forms in which records shall be kept or returns shall be made under this Law;
 - (e) prescribing the form of applications for certificates of confidentiality; or
 - (f) providing for such other matters as are reasonably necessary for or incidental to the purpose of carrying of this Law into effect.
- (2) Regulations and Orders made under this Law may make different provision for different classes of cases.

- (3) For the purposes of this Law –
 - (a) a standard condition that is for the time being prescribed in respect of a discharge permit; and
 - (b) a requirement that is for the time being prescribed as to the form in which records are to be kept or returns are to be made by a holder of a permit,are conditions imposed by the Minister in the permit.
- (4) ⁴⁶
- (5) The powers of the Superior Number of the Royal Court to make Rules under the [Royal Court \(Jersey\) Law 1948](#) shall include power to make Rules for the purposes of this Law.

53 Relationship to other enactments

- (1) This Law does not relieve any person from an obligation to obtain any authorization, consent or permission that is required by or under any other enactment.
- (2) Nothing in any of Articles 36, 37 and 39 –
 - (a) derogates from any right of action or other remedy (whether civil or criminal) in proceedings instituted otherwise than under any such Article; or
 - (b) affects any restriction imposed by or under any other enactment.

54 Implementation of international obligations

The States may by Regulations modify this Law to give effect to any international agreement, or international obligation, that relates to the control of pollution in Jersey waters and is applicable to or binding on Jersey.

55 Application to Crown

- (1) Subject to this Article, this Law shall bind the Crown.
- (2) No contravention by the Crown of any provision of this Law shall make the Crown criminally liable.
- (3) However –
 - (a) the Court may, on the application of the Minister, declare unlawful any act or omission of the Crown that contravenes a provision of this Law; and
 - (b) the provisions of this Law apply in any event to persons in the public service of the Crown as they apply to other persons.
- (4) If the Lieutenant-Governor certifies that it appears to him or her that it is requisite or expedient that, in the interests of national security, any powers in or under this Law that are specified in the certificate should not be exercisable in relation to any Crown land specified in the certificate, those powers shall not be exercisable in respect of that land.

- (5) This Law does not apply to Her Majesty in her private capacity.

56 Transitional

- (1) This Law shall have effect subject to the transitional provisions set out in Schedule 3.
- (2) The States may by Regulations repeal paragraph 3 of Schedule 3, wholly or in respect of any category of charge specified in the Regulations.

57 Citation

This Law may be cited as the Water Pollution (Jersey) Law 2000.

SCHEDULE 1

(Article 8(6))

INFORMATION THAT NEED NOT BE DISCLOSED⁴⁷

1. The Minister shall not be obliged under Article 8 to make available any information –
 - (a) affecting the confidentiality of the deliberations of any public or parish authority;
 - (b) relating to international relations, national defence or public security;
 - (c) relating to matters that are under enquiry (whether or not the enquiry is of a disciplinary nature) or to documents that are still in draft form or to any internal communications of a public or parish authority;
 - (d) relating to matters that are or have been the subject of legal or other proceedings (whether actual or prospective) or to any investigations undertaken with a view to such proceedings;
 - (e) relating to matters to which commercial or industrial confidentiality attaches (including matters of that character relating to intellectual property);
 - (f) relating to matters to which domestic or personal confidentiality attaches;
 - (g) supplied to the Minister by a person who was not under a legal obligation to do so;
 - (h) if the Minister, reasonably, is not satisfied of the reliability of the information;
 - (i) that cannot be separated, for the purpose of making it available, from information specified in any of paragraphs (a) to (h) (inclusive); or
 - (j) if the request for information is manifestly unreasonable or is formulated in too general a manner.
2. In this Schedule, a reference to a public authority includes a reference to the Council of Ministers, the Chief Minister and any Minister of the States.

SCHEDULE 2

(Article 19(1), (2))

HIGH RISK SUBSTANCES

1. Any substance that has or is associated with any of the following properties, characteristics or features –
 - (a) persistency;
 - (b) toxicity or any other noxious property;
 - (c) a tendency to bioaccumulation;
 - (d) radioactivity;
 - (e) a risk, caused anthropogenically, of eutrophication;
 - (f) transboundary significance;
 - (g) a risk of undesirable changes in the aquatic ecosystem, and irreversibility or durability of effects;
 - (h) interference with harvesting of foods in controlled waters; and
 - (i) effects on the taste or smell of anything from the aquatic environment that is intended for human consumption, or effects on smell, colour, transparency or other characteristics of controlled waters.
2. Without limiting the generality of paragraph 1, any substance that is of any of the following kinds –
 - (a) heavy metals and their compounds;
 - (b) organohalogen compounds and substances that may form such compounds in the aquatic environment;
 - (c) organic compounds of phosphorus, silicon and tin;
 - (d) biocides, including pesticides, fungicides, herbicides, insecticides and slimicides;
 - (e) chemicals used, *inter alia*, for the preservation of wood, timber, wood pulp, cellulose, paper, hides and textiles;
 - (f) oils and hydrocarbons of petroleum origin;
 - (g) nitrogen and phosphorus compounds; and
 - (h) radioactive substances and radioactive wastes.
3. Any substance whose presence in any controlled waters would affect adversely the standards of quality to be achieved in those waters under a Water Quality Order.

SCHEDULE 3⁴⁸

(Article 56)

TRANSITIONAL PROVISIONS

1. Notwithstanding Article 17(1) –
 - (a) if within 6 months after 2nd June 2000 a person applies for a permit to introduce any sewage effluent or trade effluent into controlled waters; and
 - (b) the application has not been determined by 26th November 2000, that person may introduce the effluent into controlled waters, in the manner proposed in the application, until the application is determined.
2. In considering an application to which paragraph 1 of this Schedule applies, the Minister need not comply with Article 10(2).
3. Notwithstanding Article 28, no charge under that Article shall be payable for –
 - (a) an application under paragraph 1 of this Schedule for a discharge permit;
 - (b) the holding of a permit that is granted on such an application; or
 - (c) an application for the variation, transfer or revocation of that permit, so far as the permit relates to the discharge of domestic sewage effluent.
- 3A.(1) This paragraph applies to a discharge certificate that –
 - (a) has been issued under Article 26 in respect of an introduction into controlled waters by the Minister for Infrastructure; and
 - (b) is in effect immediately before the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 2007.
 - (2) From the commencement of the Water Pollution (Amendment No. 2) (Jersey) Law 2007, each discharge certificate to which this paragraph applies shall for the purposes of this Law have effect, subject to the provisions of this Law relating to discharge permits but otherwise according to the certificate's tenor, as if the certificate were a permit issued under Article 21.
4. In this Schedule, "trade effluent" includes any effluent resulting from the use of any land –
 - (a) for carrying on any business; or
 - (b) for any educational, medical, public, recreational or scientific purpose, or for the purpose of providing any amenity,whether that use is for profit or not.

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement	*Projet No (where applicable)
Water Pollution (Jersey) Law 2000	L.14/2000	2 June 2000, 26 November 2000 ⁴⁹	P.15/2000
Water Pollution (Amendment) (Jersey) Law 2003	L.8/2003	10 January 2003	P.100/2002
Drainage (Jersey) Law 2005	L.3/2005	28 January 2005	P.193/2003
States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005	R&O.132/2005	9 December 2005	P.216/2005
Water Pollution (Amendment No. 2) (Jersey) Law 2007	L.6/2007	12 January 2007	P.11/2006
Water Resources (Jersey) Law 2007	L.29/2007	1 January 2009	P.26/2007
States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015	R&O.158/2015	1 January 2016	P.46/2015 (re-issue)
Criminal Justice (Miscellaneous Provisions) (Jersey) Law 2016	L.1/2016	20 September 2016 (R&O.98/2016)	P.87/2015
Road Works and Events (Jersey) Law 2016	L.11/2016	1 January 2017 (R&O.121/2016) 1 January 2018 (R&O.118/2017)	P.152/2015
Water Pollution (Amendment No.3) (Jersey) Law 2017	L.15/2017	19 May 2017	P.3/2017
Legislation (Jersey) Law 2021	L.8/2021 (R&O.112/2021)	28 September 2021	P.26/2021

*Projets available at www.statesassembly.gov.je

Table of Renumbered Provisions

Original	Current
1(3),(4), (5)	spent, omitted from this revised edition
8(7A)	8(8)
(8)	(9)
26(10A)	26(11)
(11)	(12)
56 (1), (2)	spent, omitted from this revised edition

Original	Current
(3)	56 (1)
(4)	(2)
57(1)	57
(2),(3),(4)	spent, omitted from this revised edition
SCHEDULE 3, 4	spent, omitted from this revised edition
SCHEDULE 5	SCHEDULE 3

Table of Endnote References

- ¹ This Law has been amended by the States of Jersey (Amendments and Construction Provisions No. 3) (Jersey) Regulations 2005. The amendments replace all references to a Committee of the States of Jersey with a reference to a Minister of the States of Jersey, and remove and add defined terms appropriately, consequentially upon the move from a committee system of government to a ministerial system of government.
- This Law has been amended by the States of Jersey (Transfer of Functions No. 8) (Miscellaneous Transfers) (Jersey) Regulations 2015. The amendments replace all references to the Minister for Transport and Technical Services with a reference to the Minister for Infrastructure.
- ² Article 1(1) amended by L.3/2005, L.6/2007, R&O.158/2015, L.15/2017
- ³ Article 1(2) substituted by L.3/2005, amended by R&O.158/2015
- ⁴ Article 2(1) amended by L.6/2007, L.29/2007
- ⁵ Article 4(1) renumbered by L.6/2007
- ⁶ Article 4(2) inserted by L.6/2007
- ⁷ Article 8(2) amended by L.15/2017
- ⁸ Article 8(8) inserted by L.8/2003
- ⁹ Article 9 substituted by L.6/2007
- ¹⁰ Article 9(2) amended by L.15/2017
- ¹¹ Article 10(1) amended by L.6/2007, L.15/2017
- ¹² Article 10(3) amended by L.8/2003, L.6/2007
- ¹³ Article 10(4) substituted by L.6/2007
- ¹⁴ Article 10(7) amended by L.6/2007
- ¹⁵ Article 10(9) amended by L.6/2007
- ¹⁶ Article 13 amended by L.15/2017
- ¹⁷ Article 14 substituted by L.15/2017
- ¹⁸ Article 15 substituted by L.15/2017
- ¹⁹ Article 17 substituted by L.6/2007
- ²⁰ Article 17(1) amended by R&O.158/2015
- ²¹ Article 17(2) amended by R&O.158/2015
- ²² Article 18(2) amended by R&O.158/2015
- ²³ Article 18(3) amended by L.6/2007, R&O.158/2015
- ²⁴ Article 18(4) amended by L.6/2007
- ²⁵ Article 18(6) substituted by L.6/2007
- ²⁶ Article 23(1) amended by L.6/2007
- ²⁷ Article 23(2) amended by L.6/2007
- ²⁸ Article 23(7) amended by L.8/2003
- ²⁹ Article 25(3) inserted by L.8/2003

-
- ³⁰ Article 26(1) amended by L.6/2007
- ³¹ Article 26(11) inserted by L.8/2003
- ³² Article 27(1) amended by L.6/2007
- ³³ Article 27(2) amended by L.6/2007
- ³⁴ Article 28(2) amended by L.6/2007
- ³⁵ Article 32(7) amended by L.8/2003
- ³⁶ Article 34(2) amended by L.8/2003
- ³⁷ Article 38(4) amended by L.1/2016
- ³⁸ Article 39(3) inserted by L.8/2003
- ³⁹ Article 44(1) amended by L.8/2003
- ⁴⁰ Article 44(6) inserted by L.8/2003
- ⁴¹ Article 45(1) amended by L.15/2017
- ⁴² Article 45(5) amended by L.15/2017
- ⁴³ Article 46(1) renumbered as paragraph (1) by L.11/2016
- ⁴⁴ Article 46(2) inserted by L.11/2016
- ⁴⁵ Article 50(1) amended by L.6/2007
- ⁴⁶ Article 52(4) deleted by L.8/2021
- ⁴⁷ Schedule 1 amended by L.8/2003, L.6/2007
- ⁴⁸ Schedule 3 amended by L.6/2007, R&O.158/2015
- ⁴⁹ The following provisions of this Law came into force on 2 June 2000 –
- a) Part 1, Articles 5, 6, 7, 11, 12, 14, paragraphs (1), (2), (3) and (4) of Article 15, Article 16, Part 5, Articles 29, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54 and 55, Schedule 2 and Schedule 3; and
- (b) Article 13, to the extent that it imposes a duty on the Committee,
- and for the purposes of the Parts, Articles and Schedules specified in (a) and (b), the following provisions of this Law also came into force on 2 June 2000, namely Articles 8, 9, 10, 30, 31, 32, 33, 34, 38, and 40 and Schedule 1 (and the original Schedule 4).
- All other provisions of L.14/2000 came into force on 26 November 2000 (see original Article 57 of the Law).